VI

THE *SUNNAH JĀMI'AH*, PACTS WITH THE YATHRIB JEWS, AND THE *TAḤRĪM* OF YATHRIB: ANALYSIS AND TRANSLATION OF THE DOCUMENTS COMPRISED IN THE SO-CALLED 'CONSTITUTION OF MEDINA'

Introduction

For almost a decade I have taught the 'Constitution of Medina' at Cambridge as the eight distinct documents it comprises, issued on various occasions over the first seven years or so, of Muḥammad's Medinan period, using a typescript text of these documents, designated A to H. My attention was first attracted to it when reviewing the late Professor A. Guillaume's translation of the *Sīrah* of Ibn Isḥāq/Ibn Hishām,[1] because of the astonishingly close parallels with *ḥawṭah* treaties from Ḥaḍramawt upon which I was working about that time.[2] Originally I had intended to publish a typical *ḥawṭah* agreement together with an analysis of the 'Constitution' which of course is not really a constitution at all. I still intend to publish my *ḥawṭah* corpus and demonstrate the similarity, but it has long been time to publish the analysis and identification of the separate documents contained in the 'Constitution', more particularly as it has important methodological and historical implications if anything approaching a definitive modern account of Muḥammad's career is to be written.

So long as conditions in the Arabian Peninsula did not greatly change, society and language did not alter much either, and in many areas Islam had but slightly modified the culture as it had been in the days of the Jāhiliyyah. Residence in Ḥaḍramawt was immensely valuable in helping to understand the Arabian background of Islam, and direct contact with northern Yemen since 1964 has afforded further opportunities of comprehending ancient Arabian institutions. The extensive background reading necessary and other preoccupations have delayed publication of the text resolved into its component parts, following on the lecture delivered in 1963 at the Islamic Cultural Centre in London.[3]

To present a comparative study complete enough to satisfy me would require an entire book, and although the analysis as set forth in the *Islamic Quarterly* should make it possible to distinguish the eight separate documents it is essential to have the Arabic text of each individual document before one. Furthermore words and expressions they employ are not easily understood, even sometimes, I think, by the ancient Arab commentators and philologists themselves, so the elucidation of technical and other terms has been a prerequisite to comprehension and translation.

In offering this analysis based on a survey of classical Arabic sources, aided by interpretation in the light of the traditional culture of those parts of Arabia with which I am relatively well acquainted, I would repeat what I have said elsewhere,[4] that Muḥammad acted in accordance with Arabian political patterns in existence from the remote past. In one sense he is simply a judge-arbiter, a

[1] A. Guillaume (tr.), *The life of Muḥammad*, London, 1955, 231 seq.

[2] cf. my 'Ḥaram and ḥawṭah, the sacred enclave in Arabia', in 'Abd al-Raḥmān Badawī (ed.), *Mélanges Ṭaha Ḥusain*, Le Caire, 1962, 41–58.

[3] 'The "Constitution of Medina"', *Islamic Quarterly*, VIII, 1–2, 1964, 3–16.

[4] cf. introd. to A. J. Arberry (ed.), *Religion in the Middle East*, Cambridge, 1969, II, 3–21, especially p. 10, but further researches have since brought new developments in my views.

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ḥakam, like his series of ancestors, and he was responsible for but few modifications to Arabian law and society. The great continuity with the Arabian past in all he did has, naturally enough, been played down during the following centuries of the formulation of Islam as we now know it, in order to build up the conceptual image of the Prophet and his activity. It seems probable that his successors, Abū Bakr, 'Umar, 'Uthmān, and of course 'Alī, continued in the legislative authority and tradition of supreme Arabian *ḥakam*. Indeed as a broad principle Muḥammad's dictum, *Khiyāru 'l-nās fī 'l-Islām khiyāru-hum fī 'l-Jāhiliyyah idhā faqihū/faquhū fī 'l-dīn* [5] ' The noblest/best of them in Islam are the noblest/best of them in the Jāhiliyyah if they be instructed in religion/law ', would confirm the continuation of arbitration in the hands of tribal chiefs under the new dispensation. It is notable that Muḥammad, at any rate at this stage, accepts the custom (*ma'rūf*) of the tribes at Yathrib as authoritative, and without attempting to modify it.

These propositions are, of course, in no way intended as an attack on Islam the religion, or the Prophet's role therein, but are founded on objective consideration of the data preserved in the ancient Arabic sources themselves, and an acquaintance, regrettably superficial, with the content of the pre-Islamic inscriptions. It may be objected that an arbitrary choice has been made in respect of the senses of a number of key words, but in fact the selection has been made in harmony with the contexts. In all cases where reference is made to the Qur'ān it has been treated as alluding directly to events in Muḥammad's career—most of which indeed are quoted in the commentaries themselves. Where even great scholars like al-Ṭabarī give them a universal application one must beg to differ to the extent of relating them to the historical and social circumstances of Yathrib/Medina in 1–11/622–32—not infrequently to be fully comprehended by the ancient Arabian practices surviving to this day.

Arabs and Jews in Yathrib at Muḥammad's hijrah

'The Apostle of Allāh came to Medina,' says al-Wāqidī,[6] ' and its inhabitants were a mixed lot, consisting of the Muslims whom the confederation/brotherhood (*da'wah*) of Islam was uniting (*tajma'u-hum*), part being people of mail coats and forts, and part allies (*ḥalīf*) in a state of union with the two tribes, the Aws and Khazraj. The Apostle of Allāh wished, when he arrived at Medina, to establish peace/concord between them, all of them/as a collective group (*jamī'-an*), and to make peace (*muwāda'ah*) with them. A man would be a Muslim and his father a polytheist (*Mushrik*).'

Muḥammad therefore concluded two *ḥilf*-pacts, between his Meccan adherents, the *Muhājirūn*, now refugees in Yathrib, and the *Anṣār* (Supporters) of the Aws and Khazraj tribes, with their Jewish client tribes.[7] He formed a confederation (*ummah*), basically secular in pattern, but theocratic in the sense that Allāh and Muḥammad were designated as its ultimate source of arbitration.

Jews had settled in the Ḥijāz before the Christian era, but the *Aghānī* [8] may be reporting Jewish historical traditions of Yathrib in stating that Banū Naḍīr, Banū Qurayẓah, and Banū Bahdal fled there after the Romans overcame

[5] cf. *The Saiyids of Ḥaḍramawt*, London, 1957, p. 6, n. 1 ; al-Wāqidī, *Kitāb al-maghāzī*, ed. Marsden Jones, London, 1966, II, 547 ; al-Bukhārī, *Ṣaḥīḥ*, ed. M. L. Krehl, Leyde, 1862–1908, II, 342, 348, 350, III, 322 (*Anbiyā'*, 8, 14, 19, and *tafsīr* of Sūrah XII).

[6] op. cit., I, 184. A *da'wah* can mean a confederation to aid or assist (Lane), but to assign it this sense at the early period is possibly a little previous.

[7] cf. my ' Constitution ', 6–7.

[8] Abū 'l-Faraj al-Iṣfahānī, *Kitāb al-Aghānī*, Būlāq, 1285/1868–9, XIX, 94.

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the Jews.[9] Naḍīr settled in al-'Āliyah, at Buṭnān/Baṭinān, Qurayẓah at Mahzūr, both wādīs in al-Ḥarrah, the lava tract—as I have seen villages in the wādīs of the lava tract in Arḥab. Even before the dominance of Aws and Khazraj the Jews were not all of identical social standing,[10] for some Jewish tribes had honour, wealth, and power (*sharaf*, *tharwah*, *'izz*) over the others. Though 13 Jewish tribes are mentioned at this period, the Prophet in his day apparently took direct political action only against three. Possibly the other Jewish tribes had direct protection agreements with the Arab tribes through their *sayyids* and *naqībs*, as listed in document C *infra*, and had been politically inactive, or they may have been affiliated or assimilated to the three larger Jewish tribes.

The *Aghānī* [11] makes it clear that whatever position the Jews had held in former times, they had lost status and their power to defend themselves had diminished (*dhallū wa-qalla 'mtinā'u-hum*), and by the immediately pre-Islamic era they were under the protection of the Arab tribes. 'Whenever one of the Aws and Khazraj annoyed them (*hāja-hum*) in any matter which they disliked, one of them did not go to the other (for aid) as they used to do before that, but the Jew [12] would go to their *jīrān* (lit. neighbours, but in the sense of protectors) among whom he was, saying, " We are your protected persons and clients/allies (*jīrānu-kum wa-mawālī-kum*) only ".[13] Each tribe (*qawm*) took refuge [14] with a sub-tribe (*baṭn*) of the Aws and Khazraj through whom they would be strengthened (*yata'azzazūn*).' This loss of status followed after a slaughter of the Jews by Mālik b. al-'Ajlān of Khazraj.

An indication of how the system operated is to be seen in the commentary on the *Dīwān* of the Aws poet Qays b. Khaṭīm.[15] A man of the Arab Tha'labah b. Sa'd, was accorded protection (*ajāra*) by Ḥaṭīb, described as a *sharīf manī' fī qawmi-hi* of Banū 'Amr b. 'Awf. When kicked in the bottom by a Jew in the Sūq of the Qaynuqā' this man called on his protector Ḥaṭīb (of Aws) for aid. (To judge by this incident and that which led to the ultimate expulsion of the Qaynuqā' by Muḥammad—the exposure of a countrywoman's nakedness by a practical joker—the Sūq of the Qaynuqā' seems to have been characterized by a certain broad humour which, if rather more restrained, was not unknown in the Jewish market of Ṣan'ā' in this century). His Aws tribal protector slew the Jew who had shamed his protégé, and the Jew's own tribal protector of Banū Ḥārith who had instigated him.

[9] A pointer toward confirming the Jewish tradition of emigration from Palestine to the Ḥijāz lies in the name Fityawn, of the Banū Tha'labah b. al-Fityawn (Guillaume, op. cit., 239). *Al-Rawḍ al-unuf*, II, 24, says, ' Al-Fityawn is a Hebrew word meaning anyone who is in charge of governing the Jews and their king (*waliya amra 'l-Yahūd wa-maliku-hum*) '. The late Dr. M. Gertner considered he had found the origin of this word in post-Biblical Hebrew and we had intended to write a note on it from the Hebrew and Arabic sources. Professor John Emerton has kindly undertaken to try and identify Dr. Gertner's word, and has supplied me with the following references: J. Levy, *Wörterbuch über die Talmudim und Midraschim*, Berlin, 1924, I, 69, אפטיא = Greek *ὑπατεία*, properly ' consulate ', then ' every era marked by an epoch-making event '. There is also איפוטיקוס = Greek *ὑπατικός*'. Cf. (ibid, IV, 26) פטייה, an abbreviated form of אפטיא = Greek *ὑπατεία*. Cf. S. Krauss, *Griechische und lateinische Lehnwörter im Talmud Midrasch und Targum*, Berlin, 1899, II, 39–40, איפטיקוס = Greek *ὑπατικός*, *consularis*, a governor (who has been consul) appointed as an imperial governor. Cf. M. Jastrow, *Dictionary of the Targumim*, repr., New York, 1950, I, 58 = II, 1155. The word is also found in Syriac. I seem to recall that Gertner said that in the usage of the period it meant something like a village headman, but this requires confirmation.

[10] *Al-Aghānī*, XIX, 95.

[11] ibid, XIX, 97.

[12] For al-Yahūd the text requires that al-Yahūdī be read.

[13] The situation is very close to that which I have described in ' A Judeo-Arab house-deed from Ḥabbān ', *JRAS*, pts. 3–4, 1953, 119.

[14] *Laja'a ilā* = *istanada ilā*, *i'taḍada bi*.

[15] *Dīwān*, ed. T. Kowalski, Leipzig, 1914, 35–6.

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The three tribes with whom Muḥammad had political dealings were Qaynuqā', Naḍīr, and Qurayẓah, the first silversmiths, and the two latter owning palm-groves and being known as the two *kāhins* and also as Banū 'l-Ṣarīḥ.[16] A *ṣarīḥ* is a person of pure lineage, and is used often in contradistinction to *hajīn*, a person only one of whose parents is an Arab. Now the blood-wit of the *hajīn* is only half that of the *ṣarīḥ* (*diyat al-hajīn niṣfu diyati 'l-ṣarīḥ*) [17] and originally the blood-wit of Qurayẓah had been only half that of Naḍīr. The Prophet however, raised the blood-wit of Qurayẓah to that of Naḍīr, thus obviously greatly improving the status of Qurayẓah—this looks like a political manoeuvre designed to ensure their support.

Apart from the three Jewish tribes some individual Arabs had become Jews. This came about in an interesting way—a woman losing her male offspring (*miqlāt*) would undertake a vow (*tandhur*), if a son of hers survived, to make him a Jew.[18] This type of relationship was established mainly with Naḍīr—another version says that individuals of Aws established a foster relationship with Naḍīr. This relationship pattern does not seem, however, to have been of major political importance. The case of Ka'b b. al-Ashraf (*infra*, p. 32) is a little different.

The Jews, when Muḥammad made the confederation pacts after his arrival in Yathrib, were included in the *ummah*; ' through the peace (*ṣulḥ*) which took place between them and the *Mu'minūn* ' Believers ' they became like a collective body (*jamā'ah*) of them, with a single word and hand '.[19]

By binding Aws and Khazraj in a confederation to which the Jews were adjoined, Muḥammad became himself a *mujammi'* or unifier, Allāh healing schism through him (*jama'a bi-hi min al-furqah*) like his ancestor Quṣayy who unified Quraysh. Quraysh of Mecca dubbed him *mufarriq*, destroyer of their tribal unity, because his actions had caused division in their ranks. The pacts made at Yathrib can be described as ' uniting ' (*jāmi'*) just as in the Jāmi' Mosque the whole community is (theoretically) present on the Friday, Yawm al-Jum'ah. The new federation to rise on the ruins of earlier federations was known as *ummah* which develops into the sense of ' community '.

Ummah

Ummah is basically a political confederation, but since confederations in ancient and even contemporary Arabia are so generally associated with an hereditary ' priestly ' house, most confederations are theocratic, though this is not a universal rule. The confederation established by Muḥammad at Yathrib has a special feature that the *dīn*, i.e. religion/law of the tribes, from whom it was formed, differed from that of their Jewish client tribes. This is not necessarily in any sense a novel situation since there is before us the example of the Quraysh pantheon at Mecca, which indicates a tolerance of other cults including Christianity—even to the extent of having Christian iconography in the Ka'bah itself. In the course of time the *ummah* or theocratic confederation developed into the ' Islamic community '.

[16] Al-Samhūdī, *Wafā' al-wafā'*, Cairo, 1326/1908–9, I, 125.

[17] Aḥmad Zakiyy Ṣafwat, *Jamharat khuṭab al-'Arab*, Cairo, 1352/1933, I, 5, in a passage on boasting against the Maqāwil Ḥimyar in the pre-Islamic era.

[18] Al-Ṭabarī, *Tafsīr*, ed. Maḥmūd and Aḥmad Muḥammad Shākir, Cairo, 1374/1954–5– , V, 407 seq., in comment on *Lā ikrāha fī 'l-dīni*. Cf. al-Suhaylī, *al-Rawḍ al-unuf*, Cairo, 1332/1914, II, 24. Some of these converts refused to abandon Naḍīr when they left Yathrib. For a somewhat parallel practice, vowing a child to a saint, see my ' Sex, birth, circumcision ', in A. Leidlmair (ed.), *Hermann von Wissmann-Festschrift*, Tübingen, 1962, 203.

[19] Ibn al-Athīr, *al-Nihāyah fī gharīb al-ḥadīth wa-'l-athar*, Cairo, 1311/1893–4, I, 43.

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Sūrah XXVII, 85 admits the existence of *ummahs* denying the signs of Allāh, and Sūrah XIII, 32, a passage Bell [20] considers as being late Meccan, refers to Muḥammad being sent to an *ummah* which had been preceded by other *ummahs* that had passed away. So presumably Muḥammad was informed about pagan theocratic confederations of former ages and of his own day.

In a Meccan passage in Sūrah XLIII, 21, of which Quraysh are most likely the subject, they are represented as saying, 'We found our fathers in a (theocratic) confederation (*ummah*), and we are guided aright in their traces/footsteps (*'alā āthāri-him muhtadūna*)'. To which the rejoinder follows, 'We never before you sent any warner to a town (*qaryah*) but the rich of it said, "We found our fathers in a (theocratic) confederation (*ummah*) and we imitate their traces/footsteps"'. To this the immediate rejoinder comes, 'Say, and were I to bring you something more rightly guided than that in which you found your fathers . . .?'. For the theocratic confederation of Quraysh it is then proposed to substitute something better.

A direct reference to the *ummah* of document A seems to be found in Qur'ān, Sūrah XXI, 92. 'This (theocratic) confederation (*ummah*) of yours is a single (theocratic) confederation (*ummat-un wāḥidat-un*), and I am your Lord, so worship Me. And they divided up their affair among them, each is to us returning (*rāji'ūn*)'. Al-Ṭabarī [21] interprets this passage to mean that originally there was only one (theocratic) confederation (*ummah*), though perhaps he thinks of *ummah* rather as a 'community'; it split up into Jews, Christians, and idolaters. The Qur'ān here seems to imply that all these sects will now revert to one (theocratic) confederation (*ummah*) under Allāh.

Qur'ānic reference to the agreements A and B of the so-called 'Constitution'

In my initial examination of the 'Constitution' I stated that many Qur'ānic verses appear to allude to one or other of the eight documents it comprises. It would indeed be surprising if the Qur'ān made no reference to, at least, documents A and B, that are fundamental as establishing the confederation at Yathrib which conceded Muḥammad political supremacy. While I do not undertake to distinguish, systematically and *in toto*, Qur'ānic allusion to each of these eight documents, I regard Sūrah III, 101 seq.,[22] as making clear and unmistakable reference to the pact(s) embodied in documents A and B; further research might well reveal many more. 'This *sūrah*', says Richard Bell,[23] 'is composite and in several parts very confused.' His essay at resolving the eight verses of Sūrah III under discussion here, into their component groupings is directly relevant to my argument. He assigns the verses to Year II, but considers that a revision took place just before Uḥud—this view I accept as plausible, but on historical-cum-literary grounds I propose to assign the verses differently.

[20] Richard Bell (tr.), *The Qur'ān*, Edinburgh, 1937–9, I, 232.
[21] *Tafsīr*, Cairo, 1374/1954–5– , XVII, 61.
[22] Al-Ṭabarī, *Tafsīr*, Cairo, 1374/1954–5– , VII, 61 seq.: Bell, op. cit., I, 55, using Western numbering of the verses, those below commencing as no. 98.
[23] ibid., I, 43.

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The Arabic text runs as follows.

. . . وَمَنْ يَعْتَصِمْ بِٱللَّهِ
فَقَدْ هُدِىَ إِلَىٰ صِرَاطٍ مُسْتَقِيمٍ يَا أَيُّهَا ٱلَّذِينَ آمَنُوا ٱتَّقُوا ٱللَّهَ حَقَّ
تُقَاتِهِ وَلَا تَمُوتُنَّ إِلَّا وَأَنْتُمْ مُسْلِمُونَ وَٱعْتَصِمُوا بِحَبْلِ ٱللَّهِ جَمِيعًا وَلَا
تَفَرَّقُوا وَٱذْكُرُوا نِعْمَتَ ٱللَّهِ عَلَيْكُمْ إِذْ كُنْتُمْ أَعْدَآءً فَأَلَّفَ بَيْنَ قُلُوبِكُمْ
فَأَصْبَحْتُمْ بِنِعْمَتِهِ إِخْوَانًا وَكُنْتُمْ عَلَىٰ شَفَا حُفْرَةٍ مِنَ ٱلنَّارِ فَأَنْقَذَكُمْ مِنْهَا
كَذَٰلِكَ يُبَيِّنُ ٱللَّهُ لَكُمْ آيَاتِهِ لَعَلَّكُمْ تَهْتَدُونَ وَلْتَكُنْ مِنْكُمْ أُمَّةٌ يَدْعُونَ
إِلَى ٱلْخَيْرِ وَيَأْمُرُونَ بِٱلْمَعْرُوفِ وَيَنْهَوْنَ عَنِ ٱلْمُنْكَرِ وَأُولَٰئِكَ هُمُ ٱلْمُفْلِحُونَ

. . . AND WHOSOEVER HAS RECOURSE TO ALLĀH FOR PROTECTION HAS BEEN GUIDED TO THE RIGHT PATH. O THOSE WHO HAVE TRUSTED (*Mu'minūn*) OBSERVE PROPER OBEDIENCE TO ALLĀH *and do not die except you be Muslimūn* AND HAVE RECOURSE FOR PROTECTION TO THE PACT (*ḥabl*) OF ALLĀH AS A COLLECTIVE GROUP (*jamī'-an*) AND DO NOT SPLIT APART, but remember Allāh's bounty to you when you were enemies and He reconciled/united your hearts so that you became, by His bounty, brothers. *And you were on the brink of a pit of fire but he delivered you from it—thus does Allāh make His signs clear to you, perchance you will be guided.* LET THERE BE OF YOU A CONFEDERATION (*ummah*) INVITING TO GOOD/WEAL/PROSPERITY AND ORDERING WHAT IS RECOGNIZED/CUSTOMARY AND PROHIBITING WHAT IS UNRECOGNIZED *and those are they who prosper.*

It is suggested that this passage underwent two subsequent revisions of its original form—which may have consisted only of the sections printed above in capital letters. The first revision may have added only the sections printed in small letters, and the second revision may have added what is printed in italics. However, some of the sections in italics, notably the second section, may have been part of the first recension.

As the passage stands al-Ṭabarī [24] informs us that it was revealed when the old pre-Islamic feud between Aws and Khazraj, who formed the confederation (*jummā'*) [25] of the *Anṣār*, fomented by a Jew, threatened to break out afresh. So here the Qur'ān reminds the *Anṣār* of the pact document (A) which had united them into a single confederation (*ummah*). The use of the word 'brothers' may be related to *akh* when it means the member of a tribe.

The phrase '*and do not die except you be Muslimūn*' does not seem to fit into the historical context, but it could suit the situation just prior to Uḥud, and some of the other italicized sections, possibly all of them, may belong also to the second recension.

While there is every reason to accept the historicity of al-Ṭabarī's statement that the passage as a whole relates to the Aws-Khazraj incident, I propose that the original form of the passage was only those sections printed in capitals. This is of course speculative, as so much of literary criticism applied to the

[24] *Tafsīr*, Cairo, 1374/1954–5– , VII, 59.
[25] Reading so for the *jimā'* of the editors.

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Qur'ānic text inevitably must be. The criteria upon which the proposal is based are the correspondences in language and content between this passage and documents A and/or B. If my theory be correct, then we have here embedded in Sūrah III, the (or a) Qur'ānic passage which accords sanction to the making of a pact creating the confederation (*ummah*) of Muḥammad al-Nabiyy al-Ummī, or more properly the pact of Allāh, Muḥammad's Lord, whose representative Muḥammad is.

Correspondences between Sūrah III, 101 seq. and documents A and B

Wa-man ya'taṣim bi-'llāhi fa-qad hudiya ilā ṣirāṭ-in mustaqīm-in. Yā ayyuhā 'lladhīna āmanū 'ttaqū 'llāha ḥaqqa tuqāti-hi, corresponds nearly to document A/12, *Wa-inna 'l-Mu'minīna 'l-muttaqīna 'alā aḥsani huda-n wa-aqwami-hi.*

From this follows logically the injunction *wa-'taṣimū bi-ḥabli 'llāhi jamī'-an*, interpreted by al-Ṭabarī [26] as, ' Grasp the religion/law (*dīn*) of Allāh which He commanded you to do, and His pact (*'ahd*) which He covenanted with you in His *kitāb* (writing, scripture, etc.) to you, of amity/alliance (*ulfah*) and unity (*ijtimā'*) in true accord (*'alā kalimati* [27] *'l-ḥaqqi*) and acceptance of Allāh's command '. Al-Ṭabarī makes rather heavy weather of *ḥabl* which we know even in pre-Islamic times to mean a bond/tie/pact; he does, however, give other pertinent senses—*ḥabl* = *amān* ' security ', and in fact documents A and B do set out to establish a general basis of security. *Ḥablu 'llāhi* = *jamā'ah* [28] supports my identification of documents A and B with *al-Sunnat al-Jāmi'ah* which figures in the arbitration agreement contracted between 'Alī and Mu'āwiyah at Ṣiffīn.

Wa-lā tafarraqū ' and do not split apart ' is interpreted by al-Ṭabarī [29] as not to split apart ' from the *dīn* of Allāh and His treaty/pact/confederation (*'ahd*) which He made with you in His *kitāb* (writing, scripture) consisting of becoming friendly and united in obedience to Him and the Apostle of God and in resorting to His final command '. This last is, in effect, the last provision of document B.

Wa-l-takun min-kum ummat-un, etc. This verse sanctioning the formation of a confederation (*ummah*), stipulates that it is to be based on what is recognized (*ma'rūf*) or known, and in fact the Yathrib tribes named in document A agree to deal with the most important of all tribal issues, murdering or slaying, in accordance with the recognized/customary (*ma'rūf*) procedure among them. Al-Ṭabarī [30] explains *ummah* as *jamā'ah* which is its primitive sense in this historical context. However, he says that *khayr* means Islam and its laws (*sharā'i'*), *ma'rūf* means following Muḥammad and his *dīn*, and *munkar* is denying what Muḥammad had brought from Allāh. The three latter explanations

[26] *Tafsīr*, VII, 70. Professor Beeston has supplied me with an invaluable note on *ḥabl* in ancient South Arabian. ' *Ḥbl* is used in a stereotyped formula when the *mkrb* (*mukarrib* = *mujammi'*) " gave juridical status to every community *of* (dhū, presumably here implying ' united by ') god and divine patron, and/or of *ḥbl* and *ḥmr* ". It cannot be said even now whether the second pair of terms has a religious or purely secular association.' The significance of *ḥabl* in this context is that it parallels in sense and circumstance, the *ḥabl Allāh* of Qur'ān, III, 101. Cf. Beeston's *Warfare in ancient South Arabia (2nd–3rd centuries* A.D.) (Qahtan, Fasc., 3), London, 1976, 34, 38, and particularly 36, for *mḥkm b-ḥbl*, a settlement by treaty/negotiated peace, sought by Shammar of Raydān from the king of Saba' and Raydān.

[27] The ancient and modern phrase, *Kalimatu-hum wāḥidah*, means that they are of one accord, united in their attitude, etc.

[28] *Tafsīr*, VII, 71.

[29] ibid, VII, 74.

[30] ibid., VII, 91 seq.

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seem to be developed beyond and to have departed from the simple and restricted primitive meanings of these Qur'ānic words taken in their original historical context, i.e., in conjunction with document A.

A few verses after the aforegoing there occurs a passage (112) which indicates that the Jews, or certain of them, have a treaty/bond (*ḥabl*) from Allāh, and one from the people (*al-nās*). That from Allāh might be document C, and the other pact might be a reference to pacts of protection or alliance made with Jewish tribes by individual Aws and Khazraj tribes.

Summary of conclusions

In the earliest of three recensions, Sūrah III, 101–4 relates to documents A and B of the 'Constitution' which I identify with *al-Sunnat al-Jāmi'ah*. Al-Ṭabarī's commentary demonstrates that the *ḥabl* mentioned in the Sūrah is a treaty of unification and thus reinforces my argument for identification of documents A and B with *al-Sunnat al-Jāmi'ah*.

The first recension proposed for this passage sanctions the setting up of the confederation—the second converts the passage into an admonition to Aws and Khazraj to abide by their confederation treaty—the third modification, taken in conjunction with certain following verses, is to be regarded as encouragement of the Prophet's adherents to face the Meccan forces with which they eventually clashed at Uḥud.[31]

(It does occur to mind that where the commentaries quote several contradictory traditions about the circumstances of the revelation of a particular verse or group of verses, these might reflect more than one recension of the text, but such neat solutions to problems of textual criticism rarely come to light in practice.)

However, even if the proposal that there were three recensions of these important verses be unacceptable, it must be reaffirmed that their reference back to the two treaties, documents A and B, under the title of *Ḥabl Allāh*, seems all but incontrovertible.

The 'eight documents' of the 'Constitution'

The two treaties establishing the confederation between the Quraysh *Muhājirūn* seeking protection at Yathrib and the tribal Supporters (*Anṣār*) of Muḥammad have been lumped together with later agreements and transmitted as a single document known to European scholars as the 'Constitution of Medina'—a misnomer in that it relates the treaties to a locality rather than to tribes. From the historical view-point it is not less in importance than the Qur'ān itself and, though slightly jumbled in transmission, it is patently authentic. Unravelling it by a combination of linguistic and literary techniques has been an absorbing task.[32]

[31] Bell, op. cit., I, 55, places this passage from Sūrah III, 100 (his no. 98) before Uḥud.

[32] 'Awn al-Sharīf Qāsim, *Diblūmāsiyyat Muḥammad*, Khartoum, n.d. [1971], 241–4, has printed the 'Constitution' adopting the division into separate documents made up till the time he wrote his London M.A. thesis. Muḥ. Ḥamīdullāh, *Majmū'at al-wathā'iq al-siyāsiyyah*, third ed., Beirut, 1389/1969, has noted my first article but simply reprinted the text uncritically without divisions, though he has given a long list of texts in which pieces of the eight documents are quoted. This could be valuable for further study, but I have not used all his sources. Qādī Muḥ. b. 'Alī al-Akwa' al-Ḥiwālī, *al-Wathā'iq al-siyāsiyyah al-Yamaniyyah*, Baghdād, 1396/1976, 51 seq., appears only to have reproduced Ḥamīdullāh's text and numbering. Miss O. H. Rahman has drawn my attention to M. Gil, *The constitution of Medina: a reconsideration*, Jerusalem, 1974, which adds one or two references to my accumulation (not all utilized here) of sources, but it takes no account of the division of the text into eight well-defined documents.

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The eight documents of which it is formed are doubtless traditional in pattern and diction, not at all novel to the age, and comprise the following distinct elements.

A. The confederation treaty
B. Supplement to confederation treaty A

(These two pacts A and B are to be considered as *al-Sunnat al-Jāmi'ah* [33] cited in the arbitration treaty between 'Alī and Mu'āwiyah.)

C. Treaty defining the status of the Jewish tribes in the confederation
D. Supplement to the treaty (C) defining the status of the Jewish tribes
E. Reaffirmation of the status of the Jews
F. Proclamation of Yathrib a sacred enclave (*ḥaram*)
G. Treaty concluded prior to Khandaq among the Arabs of Yathrib and with the Jewish Qurayẓah, to defend it from Quraysh of Mecca and their allies
H. Codicil to the proclamation of Yathrib a sacred enclave (*ḥaram*)

The text

The two early versions of the text at present known to me are that of Ibn Isḥāq (*fl.* 85–151/704–68) which is the basis of the version given below, and that of Abū 'Ubayd [34] which is defective. The late copy of Ismā'īl b. Muḥammad Ibn Kathīr [35] has also been consulted.

Ibn Isḥāq's text, with certain omissions suggested *infra*, looks substantially reliable and correct. Documents E to H are not in chronological order and the initial clauses of E have been misplaced. A credible explanation for this disorder is that they were written on small separate sheets (*ṣaḥīfah*) which became confused, or on the back of earlier documents in the series. Abū 'Ubayd (154–224/770–838) has not always correctly understood the documents, but the main interest in his account is the *isnād* he gives going back to al-Zuhrī [36] (*c.* 51–124/671–742) who is reported to have said, ' I have heard that the Apostle of God wrote this writing (*Balaġha-nī anna Rasūla 'llāhi ṣl'm kataba bi-hādhā 'l-kitābi*). Al-Zuhrī's version is defective and inferior to that of Ibn Isḥāq. It looks as if Ibn Isḥāq had access to a written document, not necessarily, though possibly, the original, whereas al-Zuhrī as reported by Abū 'Ubayd did not.[37]

In my first article on the ' Constitution ' I divided the several component documents from each other according to the terminal formulae with which they conclude, enjoining that engagements set forth in each document should be kept. Most terminal formulae in the series include the root *barra* in one or other of its derivatives from the basic sense of *barra bi-yamīni-hi*, ' to fulfil one's

[33] See Naṣr b. Muzāḥim al-Minqarī, *Waq'at Ṣiffīn*, Cairo, 1382/1962–3, 505, for a Shī'ah commentary on the *taḥkīm* document and, 510, for the document in one of its recensions. It is not, of course, suggested that this was the original title of documents A and B.

[34] Qāsim b. Sallām Abū 'Ubayd, *Kitāb al-amwāl*, Cairo, n.d., 202 seq.

[35] *Al-Bidāyah wa-'l-nihāyah*, Cairo, 1351/1932, III, 224 seq.

[36] For al-Zuhrī see A. A. Duri, ' Al-Zuhrī: a study on the beginnings of history writing in Islam ', *BSOAS*, XIX, 1, 1957, 1–12.

M. Gil, op. cit., 47, cites another *isnād* from Ibn Sayyid al-Nās (first half of the eighth/fourteenth century), *'Uyūn al-aṯar*, Cairo, 1356/1937–8, but it seems to have no special evidential value and is not to be regarded as an *isnād* missing from Ibn Isḥāq who, in fact is quoted by Ibn Sayyid al-Nās as an authority in his own right.

[37] Al-Zuhrī's text has been collated with that of Ibn Isḥāq; see pp. 40–2. Al-Zuhrī narrated Tradition on the authority of the Prophet's servant Anas b. Mālik (ob. *c.* 90/709) (*Usd al-ġhābah*, Cairo, 1280/1863–4, I, 127), in whose house the two *ḥilfs* were contracted.

For al-Zuhrī's wording *kataba bi* . . . cf. Dozy, *Supplément, kataba ilay-hi bi-dhālika, il lui écrivit pour lui ordonner faire telle chose.*

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oath '. There is an indication that this was a formula of the pre-Islamic era in a verse [38] on the support given by Khazraj to 'Abd al-Muṭṭalib, *Tawāṣaw 'alā 'l-birr, wa-dhū 'l-birr afḍal* ' They bade one another fulfil (the oath) and he who fulfils is nobler '. The parties to these treaties would take an oath to adhere to them—indeed the very word *ḥilf*, by which these pacts are named, means ' swearing an oath ' also (Lane). So if they wished to break them they would have to find a justificatory pretext to do so.

Signatories to the documents

Each of the eight documents must have borne the signatures or seals of the various contracting parties. At the Ḥudaybiyah treaty the names of the *Muhājirūn* and of Meccan Quraysh were written at the top (*kutiba 'alā ṣadri 'l-kitāb*).[39] This practice persisted in south Arabia till recent times, and documents carried a row of seals or signatures at the top of the paper above the written text. Such south Arabian agreements often employ with signatures the term *aqarra bi* . . . which appears in document B/3a.

As signatories on behalf of the contracting parties we may confidently restore Muḥammad's seal and names of leading Quraysh *Muhājirūn*, the names of the *naqībs* representing the Khazraj and three Aws tribes with whom Muḥammad had to deal in matters affecting the tribes of Yathrib, and most probably certain prominent *Munāfiqūn* such as 'Abdullāh b. Ubayy of a group belonging to Banū 'Awf of Khazraj—indeed the conclusion that his name appeared among the signatories seems inescapable.[40] The documents relating to the Jews likewise would probably contain the names of Jewish signatories, for instance that of the chief Ka'b b. Asad al-Qurazī to document F. I am inclined to regard the ' Constitution ' as preserved by Ibn Isḥāq as having been transcribed from a sort of reference copy already omitting tiresome lists of signatures. Had the full copy been available to Ibn Isḥāq I postulate that he would have either given the list of signatories or commented upon them—perhaps therefore the reference copy was made even by 'Alī himself.

The naqībs

Al-Ṭabarī [41] defines a *naqīb* as ' the trustworthy person who stands surety for the tribe (*al-amīn al-ḍāmin 'alā 'l-qawm*) '. His office was clearly exactly that of the *shaykh al-ḍamān* [42] in the present-day Zaydī Yemen who is responsible for arbitration, the collection of taxes, payment of blood-money or damages, etc. *Al-Rawḍ al-unuf*,[43] in discussing the phrase *fulān 'alā ribā'ati qawmi-hi*, says, ' He was their *naqīb* and the one of them over their affairs and custom consisting of the judgements of blood-wits and blood (shed) (*kāna naqība-hum*

[38] Muḥ. b. Ḥabīb, *Kitāb al-munammaq*, Ḥaydarābād, 1384/1964, 88.

[39] Al-Wāqidī, op. cit., II, 612. The Prophet sometimes sealed a document with his fingernail (ibid., III, 1025)—here, I suppose in the sense of closing it. A paper was sometimes endorsed on the back (Muḥ. b. Yaḥyā al-Ṣūlī, *Adab al-kuttāb*, Cairo, 1341/1922, 149).

[40] cf. *infra*, p. 11.

[41] *Tafsīr*, Cairo, 1374/1954–5– , X, 110. See also al-Jāḥiẓ, *Rasā'il*, Cairo, 1384/1964, I, 14; Ibn al-Athīr, *al-Nihāyah*, IV, 167, the *naqīb* is the *'arīf* over the tribe (*qawm*), set over them (*al-muqaddam 'alay-him*), who becomes acquainted with their news, and examines their conditions, i.e. inspects (*yufattish*). Ibid., III, 86, defines the *'arīf* as *al-qayyim bi-umūr al-qabīlah*, the person who manages the affairs of the tribe, or the collective body (*jamā'ah*). The functions of the *naqībs* are well set forth in al-Wāqidī, op. cit., II, 547. Muḥ. b. Ḥabīb, *Kitāb al-muḥabbar*, Ḥaydarābād, 1361/1942, 38, lists the *naqībs* of the Banū 'l-'Abbās b. 'Abd al-Muṭṭalib, of Khuzā'ah, Tamīm, and others—perhaps indicating that the family had a control over this group of tribes associated with the Meccan *ḥaram*. Al-Bukhārī, *Ṣaḥīḥ*, IV, 395, notes that *'arīfs* refer a case to Muḥammad.

[42] In the north of the Yemen a *naqīb* is a tribal chief lesser than a *shaykh al-mashāyikh*.

[43] op. cit., II, 19.

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wa-wāḥida-hum 'alā sha'ni-him wa-'ādati-him min aḥkām al-diyāt wa-'l-dimā')'. The *naqībs*, or what seems to be a higher rank, the *sayyids* or lords, were also those who entertained guests (*muṭ'im*), and sometimes Muḥammad would leave a *naqīb* in charge of Medina during his absence. A *naqīb* is described as *kafīl*, representing, responsible, for the tribe.

Muḥammad seems to have had some influence on the election of *naqībs*, and he was able to make himself head of the Banū 'l-Najjār, his maternal uncles in the wider usage of this kinship term, when their *naqīb* died.[44]

When the list of *naqībs* in the *Sīrah* is compared with the tribes named in the pacts documents, A and C, it is evident that each Khazraj tribe is represented by one or two *naqībs*, and that three *naqībs* represent the Aws (of whose subtribes only 'Amr and Nabīt are specified in either pact). One *naqīb* in fact is of higher standing, a *sayyid*. Identification of the twelve *naqībs* with the twelve tribes of Israel [45] or the twelve disciples of Jesus seems much later than Muḥammad and it has at any rate nothing to do with their role in the *ummah*. The number seems to me entirely adventitious. Their importance is somewhat overshadowed by Ibn Isḥāq's concentration on other figures, but is in much greater evidence in al-Wāqidī's *Maghāzī*.

The Munāfiqūn 'Hypocrites'

Elsewhere [46] I have already proposed that the obvious derivation of *munāfiq*, which very early came to mean 'hypocrite', is from the word *nafaqah* in the general sense of 'maintenance'. From documents C and E it is clearly a kind of tax paid by the *Mu'minūn* and Jews alike. As it is paid when the *ummah* is at war I suggest that it was a sort of levy like the *ghurm* that the Zaydī tribes impose upon themselves at emergencies or extraordinary occasions. A distinction is made by the Qur'ān between the *munfiq* who pays *nafaqah* and is praiseworthy, and the *munāfiq* who is upbraided along with the Jews. Both the latter were evidently reluctant to pay contributions towards what did not lie in their interests. The *munāfiq* is consequently to be understood as a reluctant payer of *nafaqah* alongside others readily accepting this obligation, a 'co-payer' of *nafaqah*. *Munāfiqūn*/Hypocrites' are those who say "Do not spend on those who are with the Apostle of Allāh so that they become scattered" (*humu 'lladhīna yaqūlūna lā tunfiqū 'alā man 'inda Rasūli 'llāhi ḥattā yanfaḍḍū*)'.[47] According to al-Bayḍāwī [48] this exhortation came from Ibn Ubayy, chief of the *Munāfiqūn* who is described as not a Muslim, not of his people in religion (i.e. paganism), and not a Jew. The last-quoted verse comes close to demonstrating the original sense I propose for *munāfiq*.

Sūrah IX, 56 says of the *Munāfiqūn*, 'They swear by Allāh that assuredly they are of you, though they are not of you but they are a people/tribe who are afraid (*Yaḥlifūna bi-'llāhi inna-hum la-min-kum wa-mā hum min-kum wa-lakinna-hum qawm-un yafraqūna*)'. Al-Ṭabarī [49] says 'afraid of you'. I understand this passage as referring to an oath taken to abide by pacts in the two

[44] 'Alī b. Ibrāhīm Nūr al-Dīn al-Ḥalabī, *al-Sīrat al-Ḥalabiyyah*, I, 479, II, 119.

[45] Al-Suhaylī, op. cit., I, 276, avers that the *naqībs* are like *qawm* Mūsā. Cf. al-Balādhurī, *Ansāb al-ashrāf*, ed. Muḥ. Ḥamīdullāh, Cairo, 1959– , I, 253–54, quoting the Prophet as saying, *Inna-kum kufalā' 'alā qawmi-kum . . . wa-anā kafīl 'alā qawmī* 'You are guarantors/responsible for your tribe and I for mine'.

[46] *Islamic Quarterly*, loc. cit.

[47] Qur'ān, LXIII, 7. Ibn al-Athīr, op. cit., II, 190, quotes a Tradition, 'Do not call the *Munāfiq* lord (*sayyid*), for even if he be your *sayyid* he is still a *Munāfiq*'.

[48] *Anwār al-tanzīl*, ed. H. O. Fleischer, Leipzig, 1846–8, II, 335.

[49] *Tafsīr*, 1374/1954–5– , XIV, 297–8.

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documents A and B. Again in Sūrah LVIII, 16, in a passage dated by Bell [50] as post-Uḥud, the *Munāfiqūn* accused of conspiring with the Jews are said to be taking their oaths as a shield for subversive activities but, ' they are neither of you nor of them; they swear upon a false basis knowingly '. It seems logical that the shield or protection which they enjoy through having taken their oaths, is none other than that accorded to the whole community by documents A and B containing pacts which the *Munāfiqūn* swore, as did the rest, to observe.

To revert to the question of the levy (*nafaqah*), Sūrah IX, 99 seq., informs us that ' some A'rāb (tribal Arabs) take what they spend (*yunfiq*) as an impost (*maghram*) . . . but some of the A'rāb are those who believe/trust (*yu'min*) in Allāh and the Last Day and take what they spend as means of access (*qurubāt*) to Allāh '. *Maghram* (syn. *gharāmah*) is identical with the *ghurm* of the Zaydī tribes already mentioned and has probably the same sense. The sūrah continues, ' Some of those around you of the A'rāb are *Munāfiqūn*, and some of the people of al-Madīnah, obstinate in *nifāq* '. Bell [51] considers these verses may belong to the time of Ḥudaybiyah, but thinks that the allusion to the people of al-Madīnah is probably a later insertion. Al-Ṭabarī [52] explains that those A'rāb *Munāfiqūn* pay *nafaqah* from ostentation and to guard against being raided. The tribes of the A'rāb who are Munāfiqūn are stated by al-Bayḍāwī [53] to be Juhaynah, Muzaynah, Aslam, Ashja', and Ghifār, but al-Ṭabarī [54] says the ' good ' A'rāb are Banū Muqarrin of Muzaynah.

The interest of these passages is that the tribal Arabs to the west of and beyond the confines of al-Madīnah are required to pay *nafaqah* to Muḥammad, possibly for this first time in his career as theocratic ruler there. Although the sūrah is dealing at this point with the important matter of payment of *nafaqah*-levy, the terms *munāfiq* and *nifāq* are already taking on the secondary sense of hypocrite and hypocrisy which, in my view, have supplanted their original meaning so that the early philologists are puzzled to find a derivation for them.

Mu'min and Muslim

In the rendering of the ' Constitution ' documents below the word *Mu'min(ūn)* is retained, as in much of the preliminary discussion. Earlier I proposed that its meanings included the sense of ' giving security '.[55] Bravmann,[56] in his fine study, has demonstrated that it includes the ideas of ' feeling secure ' and ' being given security '. Security of course means physical safety and protection for person and property. In document A the agreement is between the *Mu'minūn* and the *Muslimūn* of the *Muhājirūn* and the *Anṣār*—in the immediately following clauses it will be perceived that, in that most important of all tribal affairs—the blood-feud, only the *Mu'minūn* are concerned. In document C/2a the term *Muslimūn* (with a variant *Mu'minūn*) is used to

[50] op. cit., II, 566. Cf. al-Bayḍāwī, II, 320, for their false oaths.

[51] op. cit., I, 186. Cf. Qur'ān IX, 55.

[52] *Tafsīr*, ed. cit., XIV, 431. Cf. 'Alī b. Aḥmad al-Wāḥidī, *Asbāb al-nuzūl*, Cairo, 1388/1968, 287: 'Abdullāh b. Ubayy says, *Lā tunfiqū 'alā man 'inda Rasūli 'llāhi*, referring to the A'rāb auxiliaries paid by Muḥammad.

[53] op. cit., I, 399.

[54] op. cit., XIV, 433.

[55] *Islamic Quarterly*, loc. cit., 11.

[56] M. M. Bravmann, *The spiritual background of early Islam : studies in ancient Arab concepts*, Leiden, 1972, 26 ff. This is a most useful study to be read along with the ' Constitution '.

Cf. M. A. Sattar (Muḥ. 'Abd al-Sattār), *Al-Ḥīrī's life and works with an edition of his Wujūh al-Qur'ān*, Cambridge Ph.D. thesis, 1974 (Ph.D. 9008), 5, where *iymān* means *al-amn* and *al-thubūt* with a reference to Qur'ān LIX, 23, *wa-āmana-hum min al-khawf*. (Al-Ḥīrī *fl.* 361–431/971–1039.)

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distinguish the faith propagated by Muḥammad from that of the Jews, and it recurs when this clause is repeated in document E/3b. Again in document G/4 it is the *Mu'minūn* who are responsible for making any truce that may be agreed before Khandaq. Although *Mu'min* and *Muslim* have become virtually synonymous it is unlikely that they would be employed in juxtaposition in carefully drafted treaties like documents A and B unless they indicated two distinct categories of adherent. In fact a distinction is drawn in Qur'ān XLIX, 14, between the two terms. ' The tribal Arabs (*al-A'rāb*) said, " *Āmannā* ". Say, " You did not do as *Mu'minūn* (*lam tu'minū*). But say (plural), " *Aslamnā* ".' Al-Bayḍāwī [57] comments that *iymān* is *taṣdīq-un ma'a thiqat-in wa-ṭuma'nīnat-in* and Islam is *inqiyād-un wa-dukhūl-un fī 'l-silmi wa-iẓhāru 'l-shahādati*. Broadly speaking the contrast is between ' trust ' and ' obedience '. I follow Bravmann [58] to some extent in rendering *Mu'min* as ' one who trusts ', but since the *Mu'min* who enjoys the physical security guaranteed to a member of the *Ummat Allāh*, also guarantees that security by his own strong right arm he is *ipso facto* himself guaranteeing security.

Mu'min is of course employed in a certain range of senses, but, with the analogy before me of the undertakings that the Ḥaḍramī tribes make to the Manṣab or Lord of a *ḥawṭah*, it seemed impossible to ignore the fact that *Mu'min* is a person who grants *amān*, i.e. security, safe-conduct, etc. This idea is supported by an unusual and most interesting discussion on *Mu'min* in *Kitāb al-zīnah* [59] of Abū Ḥātim Aḥmad b. Ḥamdān al-Rāzī, a Fāṭimid scholar who flourished in the latter part of the third/ninth and early years of the fourth/tenth centuries, and who had completed this book before 310/922.

Al-Mu'min is one of the attributes of Allāh. Al-Rāzī says that its root is from *amān* (security, etc.), as if Allāh gives His servants security (*āmana 'ibāda-hu*) against treating them injuriously. This he compares to a phrase, *Āmana 'l-amīr fulān-an* ' The Amīr gave So-and-so security '. That is security against violence. *Iymān*, the verbal noun, means *taṣdīq*, ' and *iymān* on the part of the servant/worshipper is *taṣdīq* (accepting as true) what the Apostle has brought, and when he accepts it as true/trusts it he obeys his order by performing what he has promised, and out of certainty about it '. Al-Rāzī continues:

فإذا آمن بذلك آمنه الله وصار في أمانه .

قال الله عز وجل : الَّذِينَ آمَنُوا وَلَمْ يَلْبِسُوا إِيمَانَهُمْ بِظُلْمٍ أُولَئِكَ لَهُمُ الْأَمْنُ وَهُمْ مُهْتَدُونَ . فقبل الله عز وجل مؤمن وللعبد مؤمن ، لأن الأمان بين الله وبين عبده . وإنما قيل للمصدِّق مؤمن ، لأنه لما صدّقه استسلم له ، وآمَنَ كلٌّ من

[57] op. cit., II, 276. Al-Bayḍāwī quotes the incident which gave rise to the revelation of this verse. A party of Banū Asad came to Medina in a droughty year, making a show of the two *shahādahs*. They used to say to the Apostle of Allāh, ' We have brought you our families and dependants (*al-athqāl wa-'l-'iyāl*) and we did not fight with you as the Banū So-and-so did '. They wanted *ṣadaqah* and were obliging the Prophet to do them a favour. Cf. al-Tha'ālibī, *Thimār al-qulūb*, Cairo, 1385/1964, 116–17, for verses in similar vein. The rhyming cliché, which I surmise in its original form may also have included the word *qitāl*, is characteristic of tribal society. It may even be a part of a formula in this case for the action of forcing a donation by bringing one's womenfolk to a powerful or wealthy protector as a gesture of seeking for his aid. This used, at any rate up till recent years, to be done in some tribal areas of the former Western Aden Protectorate.

It looks as if, under the circumstances, their use of the term *āmannā* showed impudence.

[58] op. cit., 7 seq.

[59] Ed. Ḥusayn b. Fayḍi 'llāh al-Hamdānī, Cairo, 1375–7/1956–8, II, 70 seq. Unfortunately the editor did not live to complete the edition of this little-known work.

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كان على مثل تصديقه ، فلم يستحل دمه وماله وعرضه ، فأمنه من كان على مثل تصديقه ، فيكون المؤمنون بعضهم في أمان بعض ، وقد أعطى بعضهم بعضًا الأمان . من ذلك قول رسول الله صلى الله عليه حين سئل فقيل له : من المؤمن ؟ قال : من أمن جاره بوائقه . فأصل الإيمان من الأمان .

This passage quotes Qur'ān VI, 82, 'Those who have *guaranteed security* (*āmanū*) and have not confused their security-guaranteeing (*iymān*) with injurious action (*ẓulm*), those are they who shall have security (*amn*)'. Al-Ṭabarī [60] quotes a large number of sources to prove that *ẓulm* means *shirk* (polytheism) and tries to give the verse a religious interpretation, but in this he is following ideas that have later developed from the plain text. The verse, in point of fact, comes after one in which the demand is made as to whether the *Mushrikūn*, Polytheists, are the more deserving of security (*amn*) of the two parties (*farīq*). The whole passage appears to reflect an argument which probably is to be located at Mecca.

Allāh is called *Mu'min* and the servant/worshipper *Mu'min* because the *amān* is between Allāh and his servant. The *muṣaddiq* (one who accepts as true/trusts) is called a *Mu'min* . . . and guarantees security to everyone who accepts as true/trusts, like him, not considering it lawful to (shed) his blood, (plunder) his property, and (violate) his honour. This is reciprocal ' so that the *Mu'minūn*, part of them is in the security of the other part, and one part has given the other part security (*amān*) '.

Al-Rāzī's statements could lead to further vistas of discussion beyond the aim of this study. It is sufficient to say that he understands *Mu'min* as someone who accords physical security, a sense that would be most suitable indeed in the context of the documents before us. These *Mu'minūn* would be armed tribesmen, persons who were *manī'*, *qawiyy*, *sharīf*.

I have not attempted to resolve the highly complex problem of the meaning of Islam and Muslim, but incline to accept the findings of Baneth [61] that it means basically one who devotes himself exclusively to Allāh, etc., and to regard a *Muslim* as perhaps including both the tribal followers of Muḥammad and those of inferior status to the tribes, the *ḍa'īf* and *mustaḍ'if*. The Qur'ān can only intend to humiliate the tribal *A'rāb* from beyond Yathrib by ordering them to ' *aslam* '. The *A'rāb* were the most persistent in *kufr*, and there is other evidence that Muḥammad was not enamoured of them, just as people in a similar situation in Ḥaḍramawt in our own day felt towards the tribes.

On the basis of my work in the Yemen I have come to regard the *Muhājir* as a person seeking protection in a place and with a people not his own—like Yemeni *sayyids* seeking *hijrah* with the Zaydī tribes. Documents A and B may

[60] *Tafsīr*, ed. Shākir, XI, 492–504. Al-Ṭabarī quotes one authority who identifies ' those who have guaranteed security ' as I have rendered *alladhīna āmanū* here, with the *Muhājirūn*. This, in my view, suits the situation well, but in this case the verse is perhaps to be considered a Medinan verse in a Meccan sūrah, which does in fact have some other verses considered Medinan by al-Bayḍāwī in it. However, if Meccan, it may be better to render *alladhīna āmanū* in its more conventional senses.

[61] D. Z. H. Baneth, ' What did Muḥammad mean when he called his religion " Islam " ? ', *Israel Oriental Studies*, I, 1971, 183 seq. He cites in particular the concept of the individual who *aslama wajha-hu li-'llāhī*. *Wajh* has among its meanings that of ' honour '.

Cf. al-Ḥirī, ed. Sattar, *Islām*, for similar data, especially the last phrase.

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then be regarded as basically an agreement between members of the Bayt of Quraysh, that is to say the Holy House, seeking security and a secure dwelling-place which they are accorded by the two arms-bearing tribes, Aws and Khazraj, settled at Yathrib. The actual extension of protection to the Prophet and his acceptance of it is covered of course by the 'Aqabah treaties between him and the Aws and Khazraj—that these were written documents appears to me almost beyond doubt.

The ' eight documents ', historical setting, text, translation and commentary

Since these documents are already discussed in my earlier article at some length, much of the detail there need not be repeated here. In the rendering below where a single term in the Arabic conveys a variety of senses that can be expressed by no single corresponding term in English, such of those as are pertinent to the context are given, separated from each other by an oblique stroke. Words or phrases introduced to convey the full import of a passage are bracketed.[62] Words or phrases discussed in the commentary are followed by an asterisk.

Historical setting to document A

This is to be identified as the first of the two pacts of alliance (*ḥilf*) written in the house of Anas b. Mālik, a Khazrajī [63] of the Banū 'l-Najjār [64] to which tribe Muḥammad was related through an ancestress. It is to be assigned to Year 1 of the *hijrah* and, since it is the very basis of the new confederation (*ummah*) it would be the outcome of negotiations at Yathrib very early that year. The sources concur that it was agreed between the *Muhājirūn*, the Aws and Khazraj,[65] and the Jews.

It is, however, most important to take into account the precise wording of Ibn Isḥāq/Ibn Hishām introducing the documents. ' Ibn Isḥāq said, " And the Apostle of Allāh wrote a writing (*kitāb*) between the *Muhājirūn* and the *Anṣār*, and *in it* he made a peace (*wāda'a*) [66] with the Jews and a pact (*'āhada*) with them, and he confirmed/established them according to their religion/law (*'alā dīni-him*) and properties, and he laid down obligations due to them, and imposed obligations upon them ".' The vital point is that, as Ibn Isḥāq presents it, *this is not a treaty with the Jews*, and his attitude is confirmed by the internal evidence of the documents themselves. The treaty is between the *Muhājirūn* and the *Anṣār*. The text has Yahūd, not al-Yahūd, i.e., Jews considered as a group, a tribe even. The Jews are introduced into the main treaty as an element politically subordinate to the two contracting parties. This does not mean that the Jewish tribes were without certain powers to exert pressure on the *ummah* confederation—which is abundantly evident in the *Sīrah* itself.

The provisions of document A are mainly concerned with the political structure of the confederation. This and document B, it is suggested, follow patterns established before Muḥammad's time, and they employ the conventional legal phraseology already existing in Arabia.

[62] The many sources and citations supporting senses assigned to individual words in the documents cannot be quoted in full here.

[63] cf. Ibn al-Athīr, *Usd al-ghābah*, Cairo, 1280/1863–4, I, 127 seq.

[64] Guillaume, *Life of Muhammad*, 59; Wüstenfeld, text, 88.

[65] cf. *Islamic Quarterly*, loc. cit., 7. Ibn Kathīr, *al-Bidāyah*, III, 224, words this—between Quraysh and the *Anṣār*, or the *Muhājirūn* and the *Anṣār*.

[66] Defined by Ibn al-Athīr, *al-Nihāyah*, IV, 201, in the words, *Wāda'a Banī Fulān-in ay ṣālaḥa-hum wa-sālama-hum 'alā tarki 'l-ḥarbi wa-'l-adhā'*.

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Ibn Isḥāq introduces the account of the brotherhood Muḥammad set up at Yathrib, immediately after the 'Constitution'—might this not have been a corollary to clause 3a?

As a possible pointer towards dating document A it might be considered whether the raiding to be taken in turns (clause 10) commenced before or after the forays described by al-Wāqidī and the other historians.

Documents A and B are, in the writer's view, to be considered as the *Sunnah Jāmi'ah*, the Uniting Precedent, which is invoked in the Ṣiffīn treaty next to the Qur'ān as an authoritative source to which the arbiters should refer.[67]
(N.B. Numerals in the Arabic text of the documents refer to variant readings, pp. 40–2.)

Document A

بسم الله الرحمن الرحيم

1 هذا كتابٌ من محمد النبيّ[1]، صلى الله عليه وسلم ، بين المؤمنين والمسلمين من قريش ويَثْرِبَ[2]، ومن تبِعهم فلحِق بهم[3]، وجاهد معهم.

2a إنّهم أمّة واحدة من دونِ الناس .

2b المهاجرون من قريش على رِبْعَتِهِمْ[4]، يتعاقلون بينهم[5]، وهم يَفْدُونَ[6] عانيَهم بالمعروف والقِسْط بين المؤمنين[7].

2c وبنو عوف على ربعتهم يتعاقلون مَعَاقِلَهم الأولى، وكل طائفة[8] تفدى عانيَها بالمعروف والقسطِ بين المؤمنين[9].

2d وبنو ساعِدَةَ[10] على ربعتهم يتعاقلون معاقلهم الأولى ، وكل طائفة تفدى عانيَها بالمعروف والقسط بين المؤمنين .

2e وبنو الحارث[11] على ربعتهم يتعاقلون معاقلهم الأولى ، وكل طائفة تفدى عانيَها بالمعروف والقسط بين المؤمنين.

2f وبنو جُشَمَ على ربعتهم يتعاقلون معاقلهم الأولى، وكل طائفة منهم تفدى عانيَها بالمعروف والقسط بين المؤمنين.

[67] cf. p. 9, n. 33. I intend to deal with this subject at greater length in the *Cambridge history of Arabic literature* at present in preparation.

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2g وبنو النجّار على ربعتهم يتعاقلون معاقلهم الأولى ، وكل طائفة منهم تَفدى عانيَها بالمعروف والقسط[12] بين المؤمنين .

2h وبنو عَمْرِو بن عَوْف على رِبعتهم يتعاقلون معاقلهم الأولى ، وكل طائفة تفدى عانيَها بالمعروف والقسط بين المؤمنين .

2i وبنو النَّبِيت على ربعتهم يتعاقلون معاقلهم الأولى ، وكل طائفة تفدى عانيَها بالمعروف والقسط بين المؤمنين .

2j وبنو الأَوْس[13] على ربعتهم يتعاقلون معاقلهم الأولى ، وكل طائفة منهم تفدى عانيَها بالمعروف والقسط بين المؤمنين .

3a وإنّ المؤمنين لا يتركون مُفْرَجًا[14] بينهم أن يُعْطُوه[15] بالمعروف فى فِداءٍ أو عَقْل .

3b ولا يحالِف مؤمنٌ مَوْلَى مؤمنٍ دونه[16] .

4a وإنّ المؤمنين المتّقين على[17] مَن بغى منهم أو ابتغى دسيعة ظُلْمٍ أو إثم أو عدوان أو فساد بين المؤمنين .

4b وإنّ أيديَهم عليه جميعًا[18] ، ولو كان ولدَ أحدهم .

5 ولا يقتل مؤمنٌ مؤمنًا فى كافر ، ولا ينصر كافرًا[19] على مؤمن .

6 وإنّ ذِمّةَ الله واحدةٌ ، يُجير عليهم أدناهم[20] .

7 وإنّ المؤمنين بعضُهم مَوَالِي بعضٍ دونَ الناس .

8 وإنّه من تبعنا من يهودَ[21] فإنّ له النصرَ[22] والإُسوة ، غيرِ مظلومين ولامتناصَرٍ[23] عليهم

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9 وإنّ سِلْمَ المؤمنين واحدة، لا يسالِم مؤمن دون مؤمنٍ فى قتال
فى سبيل الله إلّا على سواءٍ وعَدْل بينهم.

10 وإنّ كل غازِيَةٍ غَزَتْ معنا يعقُب بعضُها بعضًا.[24]

11 وإنّ المؤمنين يُبيءُ بعضُهم على بعض بما نالَ دماءهم فى سبيل الله.[25]

12 وإنّ المؤمنين المتّقين على أحسنِ هُدًى[26] وأقومِه.

Document A. The confederation (ummah) treaty

In the name of Allāh, the Compassionate, the Merciful

1. This is a writing from Muḥammad the Prophet, Allāh bless and honour him, between the ***Mu'minūn*** and ***Muslimūn*** of Quraysh* and Yathrib, and those who follow them, and join with them, and strive along* with them.
2a. They are a single confederation (*ummah*) set apart from* the people.
2b. The ***Muhājirūn*** of Quraysh are in charge of the management of their affairs,* paying jointly among themselves their blood-money, and they will ransom a prisoner* of them in accordance with what is customary* and by fair sharing* among the ***Mu'minūn***.
2c. Banū 'Awf are in charge of the management of their affairs, paying jointly among themselves their previous* blood-monies, and each group/section will ransom a prisoner of them in accordance with what is customary and by fair sharing among the ***Mu'minūn***.
2d. Banū Sā'idah are in charge of the management of their affairs, paying jointly among themselves their previous blood-monies, and each group/section will ransom a prisoner of them in accordance with what is customary and by fair sharing among the ***Mu'minūn***.
2e. Banū 'l-Ḥārith are in charge of the management of their affairs, paying jointly among themselves their previous blood-monies, and each group/section will ransom a prisoner of them in accordance with what is customary and by fair sharing among the ***Mu'minūn***.
2f. Banū Jusham are in charge of the management of their affairs, paying jointly among themselves their previous blood-monies, and each group/section of them will ransom a prisoner of them in accordance with what is customary and by fair sharing among the ***Mu'minūn***.
2g. Banū 'l-Najjār are in charge of the management of their affairs, paying jointly among themselves their previous blood-monies, and each group/section of them will ransom a prisoner of them in accordance with what is customary and by fair sharing among the ***Mu'minūn***.
2h. Banū 'Amr b. 'Awf are in charge of the management of their affairs, paying jointly among themselves their previous blood-monies, and each group/section will ransom a prisoner of them in accordance with what is customary and by fair shares among the ***Mu'minūn***.
2i. Banū 'l-Nabīt are in charge of the management of their affairs, paying

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jointly among themselves their previous blood-monies, and each group/section will ransom a prisoner of them in accordance with what is customary and by fair shares among the ***Mu'minūn***.

2j. Banū 'l-Aws are in charge of the management of their affairs, paying jointly among themselves their previous blood-monies, and each group/section of them will ransom a prisoner of them in accordance with what is customary and by fair sharing among the ***Mu'minūn***.

3a. The ***Mu'minūn*** will not leave a ***mufraj*** (one turned Muslim among a people to whom he does not belong) among them without giving him what is (established by) custom for ransom or blood-money.

3b. A ***Mu'min*** will not make an alliance with the client/ally of a ***Mu'min***, intervening between him/the latter.

4a. The ***Mu'minūn*** who keep free* of dishonourable acts and offences are against (any) one of them who acts oppressively or/and (any one of them who) demands an unjust (i.e. forced) gift,* or (commits) crime/treachery, or an act of aggression, or (stirs) dissension among the ***Mu'minūn***.

4b. Their hands are against him as a body, even if he be the son of one of them.

5. A ***Mu'min*** will not slay a ***Mu'min*** in (retaliation for) a ***Kāfir*** (disacknowledger, one who declares himself quit or free of*), nor will he support a ***Kāfir*** against a ***Mu'min***.

6. The security (***dhimmah***) of Allāh (for life and property) is one—the lowliest/least of them (the ***Mu'minūn***, etc.) being (competent) to give protection on behalf of them (all).

7. The ***Mu'minūn***, some are allies/clients of others to the exclusion of the people (i.e. other people).*

8. Whosoever of Jews (Yahūd) follows us* shall have support/what is customary, and parity, not undergoing injustice and no mutual support being given against them.

9. The peace* that the ***Mu'minūn*** make is one. No ***Mu'min*** will make peace to the exclusion of/separately from a ***Mu'min*** in fighting in the path of Allāh, if it be not on the basis of equity and justice/fair dealing between them.

10. Each raiding party which raids along with us—one shall succeed another.*

11. The ***Mu'minūn***—one of them will slay on behalf of another in retaliation for what harms their blood in the path of Allāh.*

12. The ***Mu'minūn*** who keep free of dishonourable acts and offences are (following) the best and truest guidance/way.*

Commentary

(1) Quraysh here means the ***Muhājirūn***, those going to Yathrib to take protection with the ***Anṣār*** (Supporters). The ***Muhājirūn*** figure first in the list as a family of religious aristocracy, the Prophet presumably acting as their chief and representative.

(1) cf. Qur'ān VIII, 71 seq., and al-Ṭabarī, ***Tafsīr***, ed. Shākir, XIV, 77. 'Those who have trusted (***āmanū***) and sought protection by emigrating (***hājarū***) and striven with their property and persons in the way of Allāh, and those who have sheltered and supported—those—part of them are ***awliyā'*** of the other part.' In this passage I have assigned ***hājara*** the sense of the Yemenite ***hijrah*** since this is exactly what happens when a Sayyid takes ***hijrah*** with the Zaydī tribes. ***Awliyā'*** is explained by al-Ṭabarī as 'Part of them are supporters (***anṣār***) of the other part, and helpers (***a'wān***) against those ***Mushrikūn*** apart from them'. Verse 72 continues, 'And those who have trusted, but did not emigrate to seek protection—you have no ***walāyah***

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with them at all until they emigrate to seek protection'. The rest of the verse looks to me like a later addition, but this is not a point of importance. 'And if they ask you for support in religion (*dīn*) it is your duty to give support, except against a tribe/people (*qawm*) between whom and you there is the pact (*mīṯāq*) of Allāh.' The first part of verse 72 is to be interpreted, I think, as a refusal that the *ummah* should undertake to support persons who have 'trusted', i.e. in practical terms, become adherents of Muḥammad, but have not broken their existing tribal allegiances by leaving the protection of their own tribe for that of the confederation (*ummah*) established by Muḥammad. Verse 74 seems almost a postscript to the previous verses. 'And those who have trusted *afterwards* and emigrated to seek protection (*hājarū*) and striven along with you—those are of you.' This sanctions the affiliation to the confederation of late-comer adherents. In fact one can understand from the use of *laḥiqa* 'to join with them', in this clause that the adhesion of other tribes or individuals was possible and probably even envisaged.

Al-Ṭabarī, loc. cit., 77, says that the *Anṣār* gave shelter to the Apostle of Allāh and the *Muhājirūn* with him, meaning that they assigned them an abode (*ma'wa-n*) to which they could betake themselves to dwell, i.e., a *mathwa-n* and *maskan*, both meaning a place of abode. This corresponds to the action of the Zaydī tribes in setting up a place as a *hijrah*.

Hijrah meant a break with existing tribal ties and loyalties—which were replaced by adhesion to the *ummah*-confederation with transfer of responsibility of protection from one's tribe to the *ummah*. Muḥammad regarded himself as not responsible for *Muslims* who had not made this transfer of allegiance by leaving non-*Muslim* groups. This is illustrated in a Tradition of a raid on Khaṯ'am which is recorded to have taken place in Ṣafar of Year 9 (J. M. B. Jones, 'The chronology of the *maghāzī*—a textual survey', *BSOAS*, XIX, 2, 1957, 257). '(Some) people sought protection (from the raiders) by prostration (*sujūd*—to show they were *Muslims*) but they killed them in haste. This was reported to the Prophet and he ordered half of the blood-wit (*diyah*) to be paid for them, and said, "I am disassociated from any Muslim who stays among the Polytheists (*Anā barī'-un min kulli Muslim-in yuqīmu bayna aẓhuri 'l-Mushrikīna*)". They said, "O Apostle of Allāh, and why?" He answered, "May the fires of the two (*Muslims* and *Mushriks*) not be visible to one-another (on account of the distance between them)".' (Abū Dāwūd, *Sunan*, Cairo, 1371/1952, II, 43; al-Tirmidhī, *al-Jāmi' al-ṣaḥīḥ*, Cairo, Medina, 1384/1964– , III, 80 (*Siyar*).) Ibn al-Aṯhir, *al-Nihāyah*, II, 54, makes an excellent comment on this *Ḥadīṯ*, saying the *Mushrikūn* have no *'ahd* and *amān* so the *Muslims* should not stay near them.

In the former Western Aden Protectorate I was told that if a tribesman should happen to be with another tribe and his own tribe attacks the other tribe's village he is in duty bound to defend his hosts if he cannot slip away. This could well have been tribal custom in the Ḥijāz in Muḥammad's day, but the position is at any time equivocal as Muḥammad recognized, so he made a grace and favour payment of half the blood-wit while clearly defining his attitude for future occasions. The Khaṯ'am episode does not figure in most *Sīrah* books. Whether the actual incident to which this maxim is attached be considered authentic or not, the principle enunciated is not inconsistent with the provisions for the confederation promulgated in document A.

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(2a) *Min dūni*, cf. al-Wāqidī, *al-Maghāzī*, 506, speaking of Qurayẓah and Aws, *Naḥnu mawālī-kum dūna 'l-nāsi*; al-Balādhurī, *Ansāb*, ed. Ḥamīdullāh Cairo, 1378/1959, *Al-Lātu wa-'l-'Uzzā ālihatu-ka min dūni 'llāhi*? Sometimes it has the sense of ' to the exclusion of '.

(2b) Ibn al-Athīr, *al-Nihāyah*, II, 62, *'Alā ribā'ati-him = anna-hum 'alā amri-himu 'lladhī kānū 'alay-hi*. The reading, *'Alā ribā'ati-hi = ribā'atu 'l-rajul sha'nu-hu wa-ḥālu-hu 'llatī huwa rābi' 'alay-hā, ay, thābit-un muqīm-un*. Al-Suhaylī, *al-Rawḍ al-unuf*, II, 17, *rabā'atu-hum = 'alā sha'ni-him wa-'ādati-him min aḥkāmi 'l-diyāti wa-'l-dimā'*. Al-Suhaylī, loc. cit., says that a man is *'alā ribā'ati qawmi-hi* when he is their *naqīb* and *wāfid* or envoy. Cf. Abū 'Ubayd, *Kitāb al-amwāl*, 125, 202. The notes to the Egyptian edition of Ibn Isḥāq/Ibn Hishām may also be consulted.

(2b) It is possible that prisoners, other than those captured in war, might be persons held for some offence.

(2b) cf. Qur'ān II, 174, *Fa-'ttibā'-un bi-'l-ma'rūfi wa-adā'-un ilay-hi bi-iḥsān-in* in the case of *diyah* (blood-wit). Cf. *Tāj al-'arūs*, *Ma'rūf-un ism-un li-kulli 'amal-in yu'rafu bi-'l-fi'li wa-'l-shar'i*. Ibn al-Athīr, *al-Nihāyah*, III, 85, *Al-ma'rūfu kullu mā nadaba ilay-hi 'l-shar'u*. Al-Ṭabarī, *Tafsīr*, ed. cit., VII, 105, on Qur'ān III, 110, ' Ye enjoin *ma'rūf* and forbid *munkar* '. ' This means you enjoin belief in Allāh and His Apostle and enforcing His laws . . . and that you forbid . . . ' (*Jāmi' al-bayān fī tafsīr al-Qur'ān*, Būlāq, 1323–9/1905–6–1911, IV, 30). I understand *ma'rūf* in this context to mean *shar'*, a word still in use in south-west Arabia for customary laws.

(2b) *Qisṭ* is said to mean *al-iṣlāḥ*. Al-Nasā'ī, *al-Sunan*, Cairo, 1349/1930, VIII, 18, understands *qisṭ* as meaning equal blood-wits.

(2c) It will be remarked that the *Muhājirūn* are not responsible for paying their *previous* blood-monies, whereas the *Anṣār* do this—i.e., they follow their ancient custom.

(3a) Lane says that *mufraj* means one found slain in a desert, one who becomes a Muslim and has no alliance of friendship with anyone among the Muslims . . . if he commits a crime God must pay his amends, blood-wit, etc. Or al-Ju'fī says, a man among people to whom he does not belong, therefore they must pay for him a blood-wit, one who has no kinship or near relations. Cf. *al-Nihāyah*, III, 205. The alternative reading, *mufraḥ*, loaded with debts and with many dependents, seems to fit a little less well, as also its synonym, *mafdūḥ*. If, however, it be understood in this last sense, it might have something to do with the setting up of the brotherhood to assist the poor *Muhājirs*. Cf. Abū 'Ubayd, op. cit., 125, no. 330, and notes, 205.

(4a) The sense in which *ittaqā* and all derivatives from *taqā, yatqī*, is used has already been discussed by me in the *Islamic Quarterly*, loc. cit., 12. It is commonly connected with *barra* (cf. commentary to C/5, *infra*). A few examples from a large collection of supporting references may suffice. Al-Bayḍāwī, *Anwār al-tanzīl*, I, 105, commenting on *Wa-lākinna birra man ittaqā* says *wa-innamā 'l-birru birru man ittaqā 'l-maḥārima wa-'l-shahawāti*. Al-Ḥīrī, ed. Sattar, text, 3, gives *ittiqā'* senses such as *al-ijtinābu min al-maḥārimi al-ma'āṣī*, or *al-ṭā'ah*, or *al-ikhlāṣ*. Cf. al-Ḥasan b. Mūsā al-Nawbakhtī, *Firaq al-Shī'ah*, ed. H. Ritter, Istanbul, 1931, speaking of an 'Alawī, *ṭāhir-un min al-'uyūbi taqiyy-un naqiyy-un mubarra'-un min al-āfāti*; Ibn Ḥabīb, *al-Muḥabbar*, 323, in a verse, *taqi 'l-khaṭī'ata* ' avoid the offence/crime '. The context of the latter is pre-Islamic. H. Ringgren, *Proc. of the 23rd International Congress of Orientalists, Cambridge, 1954*, [London], 1957, 317, says, ' *Taqwā* seems to have been a religious term

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before Islam often associated with *birr*, which was a social virtue in the Jāhilīyah, but religious in the Koran '.

The ancient sense of the root is still preserved in southern Arabia, for instance in the Wāḥidī sulṭanate where *da'wā* is an accusation and *taqwā* a defence.

(4a) *Dasī'atu ẓulm-in* in this context is discussed by Ibn al-Athīr, *al-Nihāyah*, II, 22. Whatever sense be given *dasī'ah* it seems impossible to take *ithm* and *'udwān* as in the construct relation to it—one expects the accusative case. This departure from classical grammar impresses me as a further evidence of the genuine nature of the document. Cf. M. A. Rauf, *The Qur'ānic concept of sin*, London Ph.D. thesis, 1963, 52, containing word counts for *ẓulm*, *'udwān*, *ithm*, *fasād*, *baghy*, in the Meccan and Medinan sūrahs.

(5) This sense is attested in the Qur'ānic passage, LX, 4, where Abraham says ' We are free (*burā'-un*)/quit of you ' : . . . *kafarnā bi-kum, wa-badā bayna-nā wa-bayna-kum al-'adāwah* ' We are quit of you and between you and us hostility has broken out '. This of course is exactly the situation between Muḥammad and Quraysh of Mecca—his membership of their tribal group has been dissolved and he is at enmity with them.

(7) See clause 3b *supra*. Cf. Qur'ān IX, 73, *Wa-'l-Mu'minūna wa-'l-Mu'minātu ba'ḍu-hum awliyā'u ba'ḍ-in ya'murūna bi-'l-ma'rūfi*.

(8) To ' follow ' indicates that the Jews were in a subordinate position to the Yathrib tribes, but it does not necessarily indicate inferiority. They are indeed to have parity. Note that Yahūd (without *al*) is used here, almost as a tribal name whereas in the other documents it is al-Yahūd. Cf. other *Sīrah* sources like al-Wāqidī, op. cit., I, 176. For illustration that this clause was observed cf. Ibn Isḥāq/Ibn Hishām (Guillaume, 263). In a quarrel Abū Bakr struck Finḥāṣ the Jew, adding that but for the pact (*'ahd*) between them he would have cut off his head. Finḥāṣ went for redress to Muḥammad as head of the *Muhājirūn* and Muḥammad rebuked Abū Bakr.

(9) *Silm . . . wāḥidah—silm* can have either gender (Wright, *Grammar*, II, 209). *Silm/salm* means peace, reconciliation, *muṣālaḥah*. Ibn al-Athīr, op. cit., II, 177, says that *min kitābi-hi bayna Quraysh wa-'l-Anṣār*, comes, *Wa-inna silma 'l-Mu'minīna wāḥid-un, lā yusālimu Mu'min-un dūna Mu'min-in.* This he explains as, *Lā yuṣāliḥ wāḥid-un dūna aṣḥābi-hi, wa-innamā yaqa'u 'l-ṣulḥu bayna-hum wa-bayna 'aduwwi-him bi-'jtimā'i malā'i-him 'alā dhālika.*

(10) One patrol is to relieve another by turns so that none is on duty permanently. Ibn al-Athīr, op. cit., I, 112, *Yakūnu 'l-ghazwu bayna-hum nuwab-an.*

(11) The whole *ummah* confederation is responsible for avenging any of its members killed by parties outside it.

(12) Cf. Qur'ān XLIII, 21 seq., *Qālū innā wajadnā ābā'a-nā 'alā ummat-in wa-innā 'alā āthāri-him muhtadūna*, and ibid, 23, *Qul a-wa-law ji'tu-kum bi-ahdā mimmā wajadtum 'alay-hi ābā'a-kum*? Quraysh say their fathers/ancestors were set up as an *ummah* and they prefer to stay as their fathers were. Muḥammad proposes a ' more guided *ummah* '. Qur'ān XXXV, 42, has a phrase *Ahdā min iḥdā 'l-umam*. The terminal formula of document A states that the *Mu'minūn* are *'alā aḥsani huda-n*, equivalent to *ahdā*, which is almost in vindication of the first Qur'ān quotations *supra*, from Sūrah XLIII, considered as Meccan except for one verse. The word *huda-n* occurs in none of the other terminal formulae which are, with the exception

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of document B, mostly on the old pre-Islamic pattern. Cf. Qur'ān XVII, 9, *Inna hādhā 'l-Qur'āna yahdī li-'llatī hiya aqwamu*. Al-Ḥīrī, op. cit., text, 20, has *aqwam* = *aṯbat, aṣwab, aḥfaẓ*. The clear usage of *ittaqā* to mean keeping oneself to a contract (cf. commentary to 4a, *supra*) is evident in Qur'ān VIII, 56, *Alladhīna 'āhadta min-hum thumma yanquḍūna 'ahda-hum fī kulli marrat-in wa-hum lā yattaqūna*. Al-Ṭabarī, *Tafsīr*, XIV, 2, says the verse refers to Qurayẓah.

Historical setting to document B

Document B is to be identified as the second of the two pacts (*ḥilf*) concluded at Yathrib by the Prophet in Year I, shortly after the initial pact of confederation. It is mainly concerned with the maintenance of internal security and seems to carry the provisions of document A a stage further, emphasizing joint action of the whole confederation against the unprovoked murderer. It also isolates the Polytheists from any influence over the *Muhājirūn* and clause 1 looks as if it excluded them from the arrangements for brotherhood established by Muḥammad at Yathrib. Al-Samhūdī [68] states that there were still Polytheists there until after the confrontation at Khandaq and the Prophet's moral victory over his external opponents.

The final clause is of major importance as establishing Muḥammad as the ultimate arbiter between the various groups at Yathrib.

Clauses 3a and 3b are specially relevant to Mu'āwiyah's case against 'Alī b. Abī Ṭālib in the affair of the murder of the Caliph 'Uthmān.

Document B

1 وإنّه لا يُجير مشركٌ مالاً لقريش[27] ولا نفسًا ، ولا يَحُولُ دونه على مؤمن .

2a وإنّه من اعتَبَطَ[28] مؤمنًا قتلاً عن بيِّنة[29] فإنّه قَوَدٌ به ، إلّا أن يرضى وليُّ المقتول[30][31] .

2b وإنّ المؤمنين عليه كافّةً[32] ، ولا يحلُّ لهم إلّا قيام عليه .

3a وإنّه لا يحلُّ لمؤمنٍ أقرَّ بما فى هذه الصحيفة وآمن[33] بالله واليوم الآخِر أن ينصر مُحدِثًا ولا يُؤْوِيَهُ .

3b وإنّه[34] من نَصَره أو آواه فإنّ عليه لعنةَ الله وغَضَبَه[35] يومَ القيامة ، ولا يُؤخَذ[36] منه صَرْف ولا عَدْل .

[68] *Wafā' al-wafā'*, I, 162, in a tantalizing note, he says that a group of tribes forming Aws Allāh did not accept Islam until after Khandaq under the influence of their chief Abū Qays b. Ṣayfī al-Aslat who would seem to be a leader and poet of prominence according to notices in the *Aghānī* but does not seem to figure in the *Sīrah* unless under some other name.

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4 وإنّكم مهما اختلفتم فيه من شيء فإنّ مَرَدَّه إلى الله عزّ وجلّ ، وإلى محمد صلى الله عليه وسلم .

Document B. Supplement to the confederation treaty A

1. No Polytheist (*Mushrik*) will grant protection to property belonging to Quraysh,* or person; nor will he intervene between him against a *Mu'min*.*

2a. Whosoever kills a *Mu'min* without any transgression* on the part of the latter, proof (against the murderer) being shown, shall be slain in retaliation for him, unless the next of kin to the murdered man consent to (accept) the blood-money.

2b. The *Mu'minūn* will be altogether against him, any other course than rising against him being unlawful to them.

3a. It is not lawful to (any) *Mu'min* who has affirmed* what is on this sheet and/or trusts (*āmana*)* in Allāh and the Last Day, to support or shelter an aggressor/innovator.

3b. Whosoever supports him or shelters him shall have upon him the curse of Allāh and His wrath on the Day of Resurrection. No intercession or propitiatory gift* will be accepted from him.

4. In whatever thing you are at variance,* its reference back (*maradd*) is to Allāh, Great and Glorious, and to Muḥammad, Allāh bless and honour him.

Commentary

(1) Quraysh means the *Muhājirūn* and *Mushrik* means those Polytheists at Yathrib—who are forbidden to mediate in a dispute between Quraysh *Muhājirūn* and Yathrib *Mu'minūn*.

(1) In Abū 'Ubayd's version the last four words read, ' and will not aid them (Quraysh) against a *Mu'min* '.

(2a) Abu 'Ubayd, op. cit., 205, defines *i'tibāṭ* as *An yaqtula-hu bariyy-an muḥarrama 'l-dami*.

(3a) In south Arabian documents today this wording, *aqarra bi-mā fī* . . . is the formula used by signatories to an agreement. It is likely to have been employed by signatories to the eight documents here.

(3a) I have adopted this sense of *āmana* from Bravmann, but perhaps one should go further and render it ' finds security in '. *Muḥdith* is somebody who introduces a new element into a situation, which is therefore bad. Cf. Kumayt, *al-Hāshimiyyāt*, Leiden, 1904, 54, *Ka'annī jān-in muḥdith-un wa-ka'anna-mā* x *bi-him ittaqā min khashyati 'l-'āri ajrabu. Iklīl*, x, ed. Muḥibb al-Dīn al-Khaṭīb, Cairo, 1368/1948–9, 215, *Thumma aḥdatha fī-him wa-kharaja fa-jāwara fī Madhhij-in wa-kāna fātik-an munkar-an shujā'-an*. Ibn Mas'ūd said, *Alā sharru 'l-umūri muḥdathātu-hā, wa-kullu muḥdathat-in bid'at-un*.

(3b) cf. Qur'ān IV, 93, al-Ṭabarī, *Tafsīr*, ed. Shākir, IX, 57, *Wa-man yaqtul mu'min-an muta'ammid-an fa-jazā'u-hu Jahannamu khālid-an fī-hā wa-ghaḍiba 'llāhu 'alay-hi wa-la'ana-hu*.

Ṣarf wa-'adl is a cliché of quite frequent occurrence. *Ṣarf* is said to mean *tawbah*, repentance, and further sense given it is a voluntary gift (*nāfilah*), while *'adl* is assigned the sense of *fidyah*, ransom. In verses preceding that just quoted, a *fidyah* is mentioned for accidental slaying. Abū 'Ubayd, op. cit., says *ṣarf* means *al-taṭawwu'u li-'llāhi*, a voluntary act of submission to

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Allāh. This could be interpreted as readiness to accept Allāh's judgement, as, of course, delivered by Muḥammad. I think, however, the phrase should be understood in the light of what takes place in Ḥaḍramawt. A murderer's clan will give the Manṣab of a *ḥawṭah*, if he has committed the murder in it, a propitiary gift called *suqṭān*, say a sheep. Later a pledge, known as *'adl* will be placed in the Manṣab's hand in earnest of the tribe's wish to have the case come to judgement. In so serious a case as clause 3b, it looks as if the offender would be outlawed and/or slain.

cf. al-Ṭabarī, *Tafsīr*, ed. Shākir, II, 31 seq., Qur'ān II, 58 where *shafā'ah* is not accepted and *'adl* not taken. *Shafā'ah*, intercession, seems near to *ṣarf*, but in Qur'ān XXV, 19, *ṣarf* means 'repelling punishment'.

(4) The final clause of document B. is close to Qur'ān XLII, 8, *Wa-mā 'khtalaftum fī-hi min shay'-in fa-ḥukmu-hu ilā 'llāhi dhālikumu 'llāhu rabbī wa-'alay-hi tawakkaltu wa-ilay-hi unību*. It may be remarked that one of the preceding verses of the sūrah states that 'Had Allāh so willed, He would have made of them one community/confederation (*ummah*)'.

Qur'ān V, 48 and al-Ṭabarī, *Tafsīr*, ed. Shākir, X, 389 seq., says that 'Should Allāh will he could make you all a single *ummah*'. It then, a little further down, adds, *Ilā 'llāhi marji'u-kum fa-yunabbi'u-kum bi-mā kuntum fī-hi takhtalifūna* 'To Allāh is your reference back (*marji'* is a synonym of *maradd*) and He will inform you about that concerning which you were at variance'. Interpreting this passage in the light of document B/4 as an injunction to take disputes to Muḥammad as Allāh's representative on earth is an interpretation which differs greatly from that of al-Ṭabarī.

A third passage, Qur'ān IV, 59, says, *Fa-in tanāza'tum fī shay'-in fa-ruddū-hu ilā 'llāhi wa-'l-Rasūli in kuntum tu'minūna bi-'llāhi* 'If you are in dispute about anything, refer it back to Allāh and to the Apostle if you trust in Allāh'. The connexion of the passage with document B/4 is obvious. Al-Ṭabarī's sources interpret the passage as reference back to the Book of Allāh and to the *sunnah* or custom/practice (etc.) of His Apostle but obviously this was not the original application of the verse. The Qur'ān next attacks those who take their cases to the Ṭāghūt, but this interesting aspect of affairs cannot be dealt with here.

Kitāb al-imāmah wa-'l-siyāsah, attributed to Ibn Qutaybah, Cairo, 1383/1963, I, 119, quotes Ḥurayth b. Jābir saying that 'Alī, if he were free (*khilw-an*) of this affair (probably the dispute with Mu'āwiyah), would certainly be the person to whom reference back would be made (*al-marji'u ilay-hi*).

Historical setting to document C

This document is obviously the affiliation of each tribe (*qawm*) to its allies (*ḥulafā'*) recorded by al-Wāqidī [69]—the *ḥulafā'* meaning the Jews. He wrote a writing (*kitāb*) between them, namely this document C. Al-Ṭabarī [70] says that Muḥammad 'when he arrived in Medina, had made an agreement with its Jews that they should not aid (*yu'īnū*) anyone against him, and that if any enemy made an unexpected treacherous attack on him (*dahima-hu*) [71] they would

[69] op. cit., I, 176.

[70] *Tārikh*, ed. de Goeje and others, Leiden, 1879–1901, II, III, 1395. Cf. al-Wāqidī, op. cit., II, 454.

[71] *Dahima-hum* is the term used in document C/2. Perhaps both al-Wāqidī and al-Ṭabarī have in mind the agreement with Qurayẓah rather than this earlier agreement, and the 'Constitution' as presented by Ibn Isḥāq in one document would presumably have seemed to them to belong to Year 1 of the *hijrah*.

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support him'. Al-Wāqidī merely says that one of the conditions was that they should not support a foe against him. While this is not precisely the wording of the document it is at any rate implied in clause 2a which Ibn al-Athīr [72] interprets in the following way. 'It means that they, through the peace (*ṣulḥ*) which took place between them and the *Mu'minūn* are like a *jamā'ah* [73] (collective body) of them, their word and hands being one.' A late source [74] goes so far as to say that the treaty 'with the Jews' was made in the fifth month after Muḥammad's arrival in Yathrib. Certainly this would seem an appropriate dating both for document C and the two earlier documents which must have preceded it in point of time.

It is to be surmised from the existence of provisions in document A, clauses 7 and 8, that the Arab tribes of Yathrib were at variance over the affiliation of particular Jewish to particular Arab tribes—which this treaty aims at settling.

It will be remarked that there is a difference in the order in which the names of the tribes are given as between documents A and C. Now when a *naqīb* of the Banū 'l-Najjār died in Year 1,[75] Muḥammad being related to the tribe through the female line, made himself their *naqīb*. Is this why they come next to Banū 'Awf in C whereas they are fifth in order in A ?

Al-Samhūdī [76] quotes the Prophet as stating that the noblest house of the *Anṣār* is the Aws tribe Banū 'l-Najjār, then the Banū 'Abd al-Ashhal, though another version puts the Banū 'l-Najjār second. After this come Banū 'l-Ḥārith b. al-Khazraj, then Banū Sā'idah. This order is that of document C, after Banū 'Awf. The ancestor of the Banū 'l-Najjār was Taym Allāh b. Tha'labah—it is interesting that a theophoric name containing Allāh should be that of the ancestor of the tribe into which Hāshim had married. 'Abd al-Ashhal are a house of the Banū 'l-Najjār.

An important point is that the Jews pay *nafaqah* like other members of the community ; *jizyah*, which is a different sort of tax anyway, does not figure in the eight documents.

Document C

1 وإنّ اليهودَ يُنفِقونَ[39] مع المؤمنين ما داموا محاربين.

2a وإنّ يهودَ بنى عَوْفٍ أمّةٌ مع المؤمنين[40]، لليهود دينهم، وللمسلمين[41] دينهم، مواليهم وأنفسهم، إلّا[42] من ظلم وأثِم، فإنّه لا يُوتِغُ إلّا نفسه وأهل بيته.

2b وإنّ ليهود بنى النّجّار مثلَ ما ليهود بنى عوف؛[43]

2c وإنّ ليهود بنى الحارث مثل ما ليهود بنى عوف.

[72] *Al-Nihāyah*, I, 43.
[73] cf. the Tradition, *Al-Muslimūna tajma'u-hum da'watu 'l-Islāmi*.
[74] Gil quotes Ḥusayn b. Muḥ. . . . al-Diyārbakrī, *Tārīkh al-khamīs*, I, 398, not available to me. As seen above, however, it is only document C that is to be considered as such.
[75] Guillaume, op. cit., 235 ; Wüstenfeld, 346.
[76] Al-Samhūdī, op. cit., I, 151.

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2d وإن ليهود بنى ساعدةَ مثل ما ليهود بنى عوف.[44]

2e وإن ليهود بنى جُشَم مثل ما ليهود بنى عوف.[44]

2f وإن ليهود بنى الأَوْس مثل ما ليهود بنى عوف.

2g وإن ليهود بنى ثَعْلَبَةَ مثل ما ليهود بنى عوف.[45]

2h إلّا من ظلم وأثِم[46]، فإنّه لا يُوتِغُ إلّا نفسَه وأهل بيته.

3 وإنّ جَفْنَةَ بطنٌ من ثعلبة كأنفسهم.[47]

4 وإنّ لبنى الشُّطَيْبة مثلَ ماليهود بنى عوف.

5 وإنّ البِرَّ دون الإثم

Document C. Treaty defining the status of the Jewish tribes in the confederation

1. The Jews will pay the *nafaqah** along with the *Mu'minūn* while they continue at war.

2a. The Jews of Banū 'Awf are a confederation (*ummah*) with the *Mu'minūn*, the Jews having their religion/law (*dīn*) and the *Muslimūn/Mu'minūn** having their religion/law, their clients (*mawālī*) and their persons, excepting anyone who acts wrongfully (*ẓalama*) and commits crime*/acts treacherously/breaks an agreement, for he but slays himself and the people of his house.

2b. The Jews of Banū 'l-Najjār have the same as the Jews of Banū 'Awf.

2c. The Jews of Banū 'l-Ḥārith have the same as the Jews of Banū 'Awf.

2d. The Jews of Banū Sā'idah have the same as the Jews of Banū 'Awf.

2e. The Jews of Banū Jusham have the same as the Jews of Banū 'Awf.

2f. The Jews of Banū 'l-Aws have the same as the Jews of Banū 'Awf.

2g. The Jews of Banū Tha'labah have the same as the Jews of Banū 'Awf.

2h. Except anyone who acts wrongfully and commits crime/acts treacherously/breaks an agreement, for he but slays himself and the people of his house.*

3. Jafnah* is a sept of Tha'labah like themselves.

4. Banū Shuṭaybah/Shuṭbah* have the same as the Jews of Banū 'Awf.

5. Observation of one's undertakings eliminates treachery/breaking of treaties.*

Commentary

(1) *Nafaqah* is a tax; it is sometimes synonymous with *ṣadaqah*, and al-Ḥīrī, op. cit., 260, explains it as *ṣadaqah* and *zakāt*. After al-Ṭā'if joined Muḥammad it paid him *nafaqah* (Ibn al-Athīr, *Usd al-ghābah*, III, 373). Some tribal Arabs around Medina disliked paying it. *Wa-min al-A'rābi man yunfiqu maghram-an* 'There are some of the tribal Arabs who take what they pay as *maghram*/impost/levy' (Qur'ān IX, 99).

(2a) *Mu'minūn* appears in Abū 'Ubayd's version only.

(2a) *Athima*, to commit a crime, to perform an unlawful deed, etc. Cf. Ibn

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Mājah, *al-Sunan*, ed. Muḥ Fu'ād 'Abd al-Bāqī, Cairo, 1392/1972, 779, (*Aḥkām*, 9), *Man ḥalafa bi-yamīn-in āṯhimah 'inda minbarī hāḏhā* ' He who swears a sinful oath at this *minbar* of mine '.

(2h) Repetition of part of clause 2a for emphasis—possibly a sort of curse ? Reminiscent of this clause is the Qur'ānic citation of the story of Cain and Abel to support a ruling, set, as it were, in the past. ' Because of that We have prescribed (as a law) for the Banū Isrā'īl that whoever kills a person otherwise (than in retaliation for) another person or without trouble (i.e., disorder and fighting) in the land, it is as if he had killed the people as a body (*jamī'-an*) . . . ' (Qur'ān v, 32). Bell, op. cit., I, 98, considers this verse early Medinan. Bravmann, op. cit., 166, quotes Geiger as connecting this passage with the *Mishnā*.

(3) Werner Caskel, *Ǧamharat an-nasab . . . des Ibn Hišām . . . al-Kalbī*, Leiden, 1966, I, Taf. 176, II, 254. Jafnah is the leading house of Ghassān. Jafnah and Tha'labah were both reckoned sons of 'Amr (Muzayqiyā') whose son was the father of Aws and Khazraj. It looks as if a small section of Jafnah was attached to Tha'labah b. 'Amr. It is not suggested that they were Jews.

(4) Other readings are Shaṭnah (Abū 'Ubayd) and Shaẓiyyah (*Aġhānī*, XIX, 95), but Caskel, op. cit., II, 529, I, Taf. 193, reading Shaṭibah is to be considered authoritative. They were a sub-tribe of Jafnah/Ghassān. Al-Samhūdī, op. cit., I, 152, says they came to Yathrib from Syria (al-Shām), settling eventually in Rātij which had Jewish dwellings. The people of Rātij became allies (*ḥalīf*) of the Banū 'Abd al-Ashhal. Ibn Ḥazm, *Jamharat ansāb al-'Arab*, ed. É. Lévi-Provençal, Cairo, 1944, 351, considers them Anṣār. This clause seems to lump them along with the Jews, so possibly they affiliated to the 'Abd al-Ashhal at a later date than this document, but their history is obscure.

(5) This is one of the commonest terminal formulae in these engagements. Ibn al-Athīr, *al-Nihāyah*, I, 72, explains it clearly, *Inna 'l-birra dūna 'l-iṯhmi, ay, inna 'l-wafā'a bi-mā ja'ala 'alā nafsi-hi dūna 'l-ġhadri wa-'l-nakṯhi*, i.e. ' the fidelity to/fulfilment of what he has taken upon himself excludes perfidy and violation (of an undertaking, treaty etc.) '. Cf. al-Suhaylī, op. cit., II, 17, *Al-birru dūna 'l-iṯhmi—al-birru wa-'l-wafā'u yanbaġhī an yakūna ḥājiz-an 'ani 'l-iṯhmi*. Cf. Bravmann, op. cit., 117, for *birr* and *tuqā*. Cf. Imra'u 'l-Qays, *Dīwān*, ed. de Slane, Paris, 1837, 27, *Abarra bi-mīṯhāq-in wa-awfā wa-aṣbarā*, and ibid, 30, *Fa-qad aṣbaḥū wa-'llāhu aṣfā-hum bi-hi* x *abarra bi-mīṯhāq-in wa-awfā bi-jīrānī*. Ibn al-Kalbī, *Kitāb al-aṣnām*, ed. Aḥmad Zakiyy, Cairo, 1332/1914, 9, *Ḥalaftu yamīna ṣidq-in barrat-in* x *bi-Manāta 'inda maḥalli Āli 'l-Khazraji* ' I have sworn a genuine oath that will be observed/executed, by Manāt at the place (of sacrificing a beast if *maḥill* be read) of the Āl al-Khazraj '. Al-Hamdānī, *al-Iklīl*, I, ed. O. Löfgren, Uppsala, Leiden, 1954–65, I, 114, *Yamīna barr-in bi-'llāhi mujtahid-in* x *yu'rafu min-hu 'l-wafā'u la-'l-kaḏhibu*. See also T. Kowalski, ' Zu dem Eid bei den altern Arabern ', *Archiv Orientální*, VI, 1, 1934, 68–81. One says also, *Abarra 'llāhu qasama-hu* ' Allāh verified his oath '. Muḥammad was *Abarru 'l-nās*, (al-Wāqidī, *Maġhāzī*, II, 851, 853). According to a Tradition in al-Bukhārī, *Ṣaḥīḥ*, ed. Krehl, II, 204, ' The Apostle of Allāh said, " Of the servants of Allāh is he who, should he swear by Allāh, would fulfil it (*man law aqsama 'alā 'llāhi la-abarra-hu*) ". '

In short the terminal formula is an injunction to the signatories and those whom they represent to adhere to the undertakings which they swore to observe.

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Historical setting to document D

Apparently this document is a codicil to the previous, treating of certain points which it had not covered. Associates with the Jews are to be treated as forming a group with the Jewish tribes. These associates are evidently not Jews but may be the small groups of Arab tribesmen listed by the *Aghānī* [77] as living side by side with the Jewish Banū M rānah/M rābah. This group of affiliations established in document D, and almost certainly those in document C as well, it is categorically laid down in clause 3, can only be dissolved by permission of Muḥammad himself. The arrangement has obviously to do with such matters as collective responsibility for misdemeanours, payment of blood-wit, etc. Clause 4 is the well-known ruling by Muḥammad modifying the strict application of Jewish law on retaliation. This early document must be contemporary with document C or nearly so.

Document D

1 وإنّ مَوَالِيَ ثعلبةَ كأنفسهم[48].

2 وإنّ بِطانةَ يهودَ كأنفسهم.

3 وإنّه لا يخرج منهم أحدٌ[49] إلّا بإذن محمد صلّى[50] الله عليه وسلم.

4 وإنّه لا ينحجز على[51] ثأرِ جُرْحٍ.

5 وإنّه من فتكَ فبنفسه فَتَكَ وأهلِ بيته[52]، إلّا مَن ظلم.

6 وإنّ الله على أبرِّ[53] هذا.

Document D. Supplement to the treaty defining the status of the Jewish tribes (C)

1. The clients/allies (*mawālī*) of Tha'labah* are as themselves.
2. Those associated* with Jews (by alliance and bonds of mutual protection) are as themselves.
3. No one will come out* from them, except by permission from Muḥammad, Allāh bless and honour him.
4. A wound will not be restricted to retaliation.*
5. Whosoever assassinates*, assassinates himself and the people of his house, except if (he assassinate) one who acts wrongfully (*ẓalama*).
6. Allāh is (surety)* for the most observing of this undertaking.

Commentary

(1) Banū Tha'labah in document C/2g are presumably the Aws tribe of Tha'labah b. 'Amr b. 'Awf, but the question arises as to whether Tha'labah in C/3 are Arabs or the Jewish tribe of Banū Tha'labah b. al-Fityawn. The evidence seems to point to their being the Arab tribe, but then, in D/1

[77] op. cit., XIX, 95; al-Samhūdī, op. cit., I, 152.

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(where Tha'labah as in C/3 has no ' Banū ' prefixed to the name), I feel unable to come to a decisive opinion. The issue is of some importance—if Tha'labah here is the Jewish group then their non-Jewish allies/clients are considered part of the same political group—if they are the Arab Tha'labah then the clause is a reiteration of C/2g and C/3. In the event of the latter being the case there must be a reason for re-stating what has already been decided.

(2) What is meant by the *biṭānah* of Jews (Yahūd, as if a tribe) is also not certain. The clue perhaps lies in *Aghānī*, XIX, 95, where it is stated that the Banū M rānah (al-Samhūdī, I, 152, Banū M rābah, the vocalization being uncertain) who used to live in the place of Banū Ḥārithah, the Khazraj tribe, had septs of Arabs (*buṭūn min al-'Arab*), i.e. Arab sedentaries as opposed to tribal Arabs (A'rāb), living alongside them. These septs are listed as Banū 'l-Ḥ rmān from the Yemen (unknown to the sources I have consulted), two septs of Bilayy/Baliyy, a tribe still well known, described by Doughty as an ancient Tihāmah tribe, a sept of Banū Sulaym, and the Banū 'l-Shaẓiyyah (read Shaṭibah) of Ghassān. Though this passage does not seem to relate to the period immediately preceding Muḥammad's *hijrah*, since the Shaṭibah were still one of the tribes of Rātij at the time of the *hijrah* it is likely that the others mentioned were there also. It may have been for some economic reason that these Arab septs were associated with the Jews, as merchants, or camel-hirers, or possibly, as I formerly thought, as sharecroppers, and indeed such a possibility is not to be entirely excluded. At Khaybar a shepherd was a hired man (*ajīr*) of the Jews. He accepted Islam at the Prophet's hands (*aslama* not *āmana*), the Prophet taking trouble even over a person of small social account as was his wont (Guillaume, op. cit., 519).

Al-Ṭabarī, *Tafsīr*, VII, 138–40, commenting on Sūrah III, 117, enjoining the *Mu'minūn* not to take *biṭānat-an min dūni-kum*, understands *biṭānah* as allies/clients and friends (*awliyā' wa-aṣdiqā'*). The verse is said to have been revealed because some *Muslimūn* or *Mu'minūn* used to mix with their allies (*ḥulafā'*) of the Jews on account of the *jiwār* and *ḥilf*, protection and alliance/pact between them in the Jāhiliyyah. It seems clear, however, that this verse was directed against the *Munāfiqūn*.

Al-Bukhārī, *Ṣaḥīḥ*, ed. Krehl, IV, 41, speaks of, *biṭānatu 'l-imām wa-ahlu mashūrati-hi*. For him *al-biṭānah* means *al-dukhalā'*, persons abiding among a people but not related to them. This is a well-known type of status in both ancient and contemporary Arabia.

Cf. al-Balādhurī, *Ansāb al-ashrāf*, ed. M. Schloessinger and M. J. Kister, Jerusalem, 1971, IVA, 123, of Mu'āwiyah on the people of Syria, *Fa-l-yakūnū biṭānata-ka wa-'aybata-ka wa-ḥiṣna-ka, fa-man rāba-ka amru-hu fa-'rmi-hi bi-him*.

(3) *Kharaja* means ' to disassociate from ' as in the passage from *Iklīl*, X, quoted in the commentary to B/3a—a tribesman committed crimes within a tribe with whom he had been given protection (*ajārat-hu*) so he became a protected person of (*jāwara fī*) Madhḥij. He was an outlaw (*khalī'*, *ṭarīd*). The Ḥaḍramī tribes have the expression *mutkharrī mutbarrī* = *mutakharrij mutabarri'* in this sense of ' dissociating oneself from ', and of course this is the meaning of the Khawārij—those who disassociated themselves from 'Alī b. Abī Ṭālib.

(4) This difficult clause is to be explained in the light of Qur'ān V, 45, which states that ' We ' (Allāh) prescribed for the Jews in the Torah, a soul for a

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soul, an eye for an eye, etc., and *al-jurūḥa qiṣāṣ-un*, glossed by al-Bayḍāwī, op. cit., I, 260, as *dhātu qiṣāṣ-in*. That is—wounds will be avenged by retaliation on the wounder. The Qur'ān continues, however, *Fa-man taṣaddaqa bi-hi fa-huwa kaffārat-un la-hu*. Al-Ṭabarī, *Tafsīr*, ed. Shākir, X, 362 seq., explains this clearly as meaning that the wounded man who makes a gift of the retaliation—i.e., does not exercise retaliation—will have this accounted as expiation for his sins. Al-Ṭabarī (361) says that retaliation (*qiṣāṣ*) for murdered persons was obligatory on the Banū Isrā'īl, they having no *diyah*, blood-wit, among themselves for a person or wound (*fī nafs-in wa-lā jurḥ-in*). (Cf. al-Bukhārī, *Ṣaḥīḥ*, ed Krehl, II, 32, III, 201, IV, 315, for *qiṣāṣ* but no *diyah* among the Banū Isrā'īl.) He continues, *Fa-khaffafa 'llāhu 'an ummati Muḥammad-in, wa-ja'ala 'alay-himu 'l-diyata fī 'l-nafsi wa-'l-jirāḥi* ' But Allāh relieved the community of Muḥammad and imposed upon them blood-money in (the case of the murder of) a person and for wounds '. Nevertheless al-Ṭabarī, loc. cit., cites a case between the Naḍīr and Qurayẓah that shows they did take blood-money, though the passage leaves us in some uncertainty as to whether this was before or after Islam. *Al-Nihāyah*, I, 204, gives *inḥajaza* the sense of ' refraining from blood vengeance '—so it might be possible to understand the clause as, ' Blood revenge for a wound will not be refrained from '. i.e. it *must* be exacted. This however seems out of line with the Prophet's policy.

Professor M. A. al-Ghul whom I consulted on this clause, suggested an interpretation, ' He cannot be detained because of a claim for an injury/wound only '. While I now prefer the rendering I have given, there is some justification for such a principle. In Muḥ. b. Ismā'īl al-Amīr, *Subul al-salām*, Cairo, 1344/1925–6, III, 237–8, I came upon the statement, *Nahā Rasūlu 'llāhi an yuqtaṣṣa min jurḥ-in ḥattā yabra'a ṣāḥibu-hu* ' The Apostle of Allāh prohibited that retaliation should be taken for a wound until the wounded man should recover '. This resembles the 'Awdhalī tribal *shar'* which states, *Al-dam mā'—in kān am-'aṭīb am-sanah tbiyyin-ah, wa-adab am-Daywalī lah 'alā qadr am-ṣawb bi-'l-amānah*, ' Blood is as water—if it be a wound it must be kept under observation for the period of one year—the fine imposed by the Sulṭān being according to the nature of the wound (adjudicated) justly '. This *shar'* is probably in the direct line of descent from pre-Islamic custom.

(5) By ' the people of his house ' (*ahl bayti-hi*), only the males are intended. Among the noble tribes there was a code of honour about womenfolk, at least those of tribal standing. An outstanding example is cited in *Iklīl*, X, ed. cit., 214, of two tribes, who, during the wars between Hamdān and Madhḥij, captured nubile girls (*'ātiq*), but put them with their own sisters and avoided visiting their sisters until such time as a truce took place, whereat they returned the girls to their kinsfolk without having lifted the veil (*qinā'*) of any one of them.

In connexion with *fataka*, the well-known saying may be noted, *Qayyada 'l-iymānu 'l-fatka*, i.e. *lā yaftuku Mu'min-un*, as in C. A. Storey, *The Fākhir of al-Mufaḍḍal ibn Salama*, Leyden, 1915, 193.

(6) Al-Suhaylī, *al-Rawḍ al-unuf*, II, 17, explains the phrase *Wa-inna 'llāha 'alā atqā mā fī hādhihi 'l-ṣaḥīfati wa-abarri-hi*, as *Allāhu wa-ḥizbu-hu li-'l-Mu'minīna 'alā 'l-riḍā bi-hi*.

In connexion with these two final clauses and document C/2a and 2h, may be considered Abū 'Ubayd, op. cit., 167, ' Ḥuyayy b. Akhṭab made a

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pact (*'āhada*) with the Apostle of Allāh that he would not aid (*ẓāhara*) anyone against him, and made Allāh a *kafīl* (guarantor) on him/it (*'alayhi*)'. When Muḥammad made him and his son prisoners after the surrender of Qurayẓah, he said to him, 'The Guarantor has paid in full (*Awfā 'l-Kafīl*)', and had them beheaded.

Historical setting to document E

The identification of this document is tentative rather than final, but there is every reason to consider it a declaration intended to allay Jewish apprehensions about their security. After Badr the Jews had adopted a hostile attitude towards Muḥammad and Ka'b b. al-Ashraf had gone to sympathize with Meccan Quraysh for their losses of notables at the battle. It is only surmise, anyway at present, but since we know the Yathrib Jews had connexions with Quraysh, it could well be that they had some interest in the caravan trade which was flourishing under the great protective alliance system established by Quraysh over the main routes in the Peninsula, and that the Jews recognized that Muḥammad's threat to the security of the caravan route endangered commercial interests of theirs. Ka'b b. al-Ashraf's father was of the Arab Ṭayyi' tribe, but his mother of the Banū Naḍīr, so, as Ka'b's father died when he was very young, his mother took him to live with his maternal uncles (*akhwāl*) of Naḍīr, and he grew up among them and became a chief/lord (*sāda*). He was presumably reckoned Jewish by the matriarchal custom of the Jews, but Arab by the patriarchal Arabs but if so this was probably less important than his affiliation by residence with the Banū Naḍīr. Not content with displaying his Meccan sympathies, Ka'b satirized Muḥammad, always sensitive to ridicule, and, at his instigation, he was assassinated at the 'Awālī of Yathrib. This is recorded as taking place in Rabī' I of Year 3.[78]

On the morning following the assassination Muḥammad declared, 'Of whomsoever of the Jews you get the better, kill him!'. 'After Ka'b's murder the Jews felt insecure (*khāfū*), and none of their leaders went up, nor did they speak, fearing they would be assassinated by night (*yubayyatū*) as Ka'b b. al-Ashraf was.[79] A Jewish ally (*ḥalīf*), a merchant who had already accepted Islam of a Banū Ḥārithah tribesman was murdered, quite wantonly, by his Ḥārithī protector. The Jews and those Polytheists with them, says al-Wāqidī, were alarmed and came to the Prophet and said, 'Our fellow (Ka'b), one of our lords (*sayyid*), was come to by night and treacherously murdered for no offence or aggression (*lā jurma wa-lā ḥadatha*) of which we are aware'. Muḥammad retorted that had Ka'b kept quiet like the rest of similar mind, nothing would have happened to him, but he invited them, 'that he should write a writing between them, the content of which they should follow. So they wrote a writing (*kitāb*) between them and him under the *'adhq*-date palm at the house of Ramlah bint al-Ḥārith'. The *Aghānī* [80] makes the 'writing' between the Jews and the *Muslimūn* at Dār al-Ḥārith. It is also stated that this document was later in the hands of 'Alī b. Abī Ṭālib—which of course indirectly supports the Tradition that 'Alī had the copy of the 'Constitution' now before us. This *kitāb*, it is proposed, should be identified with document E.

[78] The dating of the murder is discussed by J. M. B. Jones, 'The chronology of the *maghāzī*—a textual survey', *BSOAS*, XIX, 2, 1957, 262 seq. The agreement at the house of Ramlat bint al-Ḥārith is likely to have followed the murder of Ka'b and of the Ḥārithī tribesman's *ḥalīf* fairly soon.

[79] Al-Wāqidī, op. cit., I, 191.

[80] op. cit., XIX, 106.

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Document E

3b وإنّ على اليهود نفقتَهم وعلى المسلمين نفقتهم[54].

4 وإنّ بينهم النَّصْرَ على من حاربَ أهلَ هذه الصحيفة.[55]

5 وإنّ بينهم النُّصْحَ والنَّصِيحةَ.

6 والبرَّ دون الإثم.[56]

Document E. Reaffirmation of the status of the Jews

1. A man* did not deal treacherously with his ally (*ḥalīf*).
2. Support is due to the person wronged.

3a. The Jews will pay ***nafaqah*** (***yunfiqūna***) along with the ***Mu'minūn*** while they continue at war.

(These three clauses appear to have been misplaced in the Arabic text in the recensions extant, in which they come after the next three clauses of E, and immediately before F. There seems to be every reason to place them as has been done here.)

3b. The Jews are responsible (for paying) their ***nafaqah***, and the ***Muslimūn*** are responsible (for paying) their ***nafaqah***.

4. There is support between them against anyone who goes to war with the people of this sheet.*
5. There is good will and sincerity of intention between them.
6. Observation of one's undertakings eliminates treachery/breaking of treaties.*

Commentary

(1) This clause poses a problem of identification of the unexpected phrase, ' A man did not . . . '. It may be a formal indirect manner of alluding to the Prophet. Sa'd b. 'Ubādah, for example, when asking the Prophet to promise to accept his verdict on Banū Qurayẓah, asks him, ' (And is it binding) on one who is here (*'alā man hāhunā*) ? '. Sa'd employed this form of address out of veneration (*ijlāl-an*) for the Prophet. So if the allusion is in fact to Muḥammad, then he may be formally absolving himself from the assassination of Ka'b. The texts on the contrary show that Muḥammad had no compunction about the murder of Ka'b, and publicly declared that he considered Ka'b had only met with his deserts.

What is more likely is that Muḥammad is repudiating any part in the Ḥārithī's murder of his *ḥalīf*, who would be also a *ḥalīf* of Muḥammad in a secondary way. Clause 2 could then be interpreted as requiring amends to be made to the family of the murdered *ḥalīf*. On the other hand one could understand the clause to be of general application to ' a person wronged ', in which case it is only a reaffirmation of such principles as that laid down in document A/8, etc.

The Ḥārithī murderer is reproached with the words, ' By Allāh, many a (piece of) meat/fat (*shuḥm*) in your belly came from his money '. From this one infers that the *ḥalīf* at least entertained his protector, but it might mean that he actually paid him for the protection accorded him.

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Ibn Sayyid al-Nās, op. cit., I, 198, reads *lan ya'thama* ' A man *will* not . . . '. This is a declaration of intent, not a denial of responsibility, if his reading be accepted. However, since it is the only version that contains this reading, and there are several blatant corruptions in the text, I am inclined to accept the *lam* of the other texts.

(3a–4) Clauses 3a, 3b, and 4 reaffirm the original conditions laid down between the Jews and the *Mu'minūn* in C/1, C/2a, and A/8.

(5–6) The Prophet, subsequent to document E, after Uḥud, is referring to document E, and in particular to clause 6, when he says, ' The Jews have a *dhimmah* and I shall not kill them '. *Nuṣḥ wa-naṣīḥah* is a technical cliché.

Historical setting to document F

This document is not in its proper chronological order, but the authorities are at variance about the date of the setting up of the sacred enclave (*taḥrīm*), al-Samhūdī [81] even placing it so late as ensuing upon Muḥammad's return from Khaybar. The date of the latter event is also disputed and assigned to either Year 6 or 7.[82] Yathrib had warded off its attackers at the Khandaq episode almost miraculously [83] just as the Mecca Ḥaram had warded off the threat of the Abyssinians and their Elephant. In this connexion it is to be noticed that Sūrat al-Aḥzāb (Qur'ān XXXIII) in its earlier portion, when alluding to the fears of some of the Prophet's Supporters that their houses were defenceless and exposed to the enemy, speaks of Yathrib, but in the latter part it is called Medina (Madīnat al-Nabiyy). A further indication of the growth of Muḥammad's power is that for the first time in this series of documents he is named ' the Apostle of Allāh '. Clause 3 indicates that the *taḥrīm* of Yathrib must be later than the treaty of Ḥudaybiyah for it forbids that a woman be given protection unless her people assent.[84] Yet it must be placed before the revelation of the verse in Qur'ān LX, 10, which says of *Mu'mināt Muhājirāt*, *Mu'min* women seeking protection at Yathrib, ' Do not return them back to the *Kāfirs* (*Fa-lā tarji'ūhunna ilā 'l-Kuffār*) ', but the *Kāfirs* are to be given what they spent on these women.

The Jawf is the flat area of Yathrib lying between the mountains and lava-tracts, its boundaries being variously named in the Traditions which allege that the actual names of these boundaries figure in the *taḥrīm*-document—but they evidently do not, and the delimitation should probably be regarded as a later accretion.

See document H, *infra*, for additional detail.

[81] op. cit., I, 76–7.

[82] cf. J. M. B. Jones, art. cit., 254, where various dates at the end of Year 6 or beginning of Year 7 are given, and one date as late as Jumādā I, Year 7.

[83] It is attractive to consider Abū Bakr's remark (al-Wāqidī, op. cit., II, 460) that one of the things by which Allāh turned back Qurayẓah from what they intended was that Medina was guarded (*tuḥras*), embodies the idea of divine protection—but the passage itself and another (p. 467) seem to indicate simply protection by patrols.

[84] cf. Guillaume, op. cit., 509 seq.; Wüstenfeld, 754–6. Most sources place Ḥudaybiyah in Dhū 'l-Qa'dah, Year 6, and Khaybar about a month later or in Muḥarram Year 7.

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Document F

1 وإنّه[37] لم يأثَمِ آمرؤٌ بحليفه .

2 وإنّ النصر للمظلوم .

3 وإنّ اليهودَ يُنفِقون مع المؤمنين ما داموا محاربين .

* * *

1 وإنّ يثربَ حَرَامٌ[38] جَوفُها لأهـــل هذه الصحيفة .

2 وإنّ الجارَ كالنَّفس غيرَ مُضارٍّ ولا آثِم[39] .

3 وإنّه لا تُجار حُرْمةٌ إلّا بإذن أهلها .[39]

4 وإنّه ما كان بين أهل هذه الصحيفة من حَدَثٍ[60] أو اشتجارٍ يُخاف فَسادُه فإنّ مَرَدَّه[61] إلى الله عزّ وجلّ ، وإلى محمد رسول الله صلى الله عليه وسلم .

5 وإنّ الله على أتقَى ما فى هذه الصحيفة وأبرِّه[62] .

Document F. The proclamation of Yathrib a sacred enclave (ḥaram)

1. The Jawf of Yathrib is inviolate/a sacred enclave, for the people of this sheet.
2. The protected person (*jār*) is like (one's) self, neither molested* nor committing an unlawful act.
3. A woman shall not be accorded protection except by permission of her people.*
4. Whatsoever aggression/misdemeanour (*ḥadath*) or quarrel there is between the people of this sheet,* which it is feared may cause dissension (*fasād*), will be referred (*maraddu-hu*) to Allāh, Great and Glorious, and to Muḥammad the Apostle of Allāh, Allāh bless and honour him.
5. Allāh is (surety)* for what is most avoided of covenant breaking and what is most honoured in the observance of what is contained in this sheet.

Commentary

(2) The Arabic is ambiguous in form, and could be understood also as ' molesting '. The sense is that a stranger, visiting or resident presumably, will be secure in the sacred enclave from aggression but must himself behave properly. Cf. the *Ḥadīth*, *Lā ḍarara wa-lā ḍirāra fī 'l-Islām*.
(3) Her people would be her male next of kin.
(4) This can only mean the signatories to the document.
(5) The word *kafīl* is probably to be understood here.

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Historical setting to document G

Document G is the agreement made in face of the threat from Quraysh of Mecca and their tribal allies shortly before the siege of Yathrib—the episode of the Trench (Khandaq), among the constituent groups of the confederation, with which are included the Banū Qurayẓah, the allies/clients of the Aws. By this time the only Jewish tribe still left in Yathrib, they were the *ḥulafā'* and *mawālī* of the *naqīb* Sa'd b. Mu'ādh. Al-Wāqidī [85] dates Khandaq in Dhū 'l-Qa'dah of Year 5, but other authorities place it in Shawwāl of either Year 4 or Year 5. The pact in general is referred to in Qur'ān XXXIII, 13–16 and 23, and that with the Jews by al-Wāqidī [86] in phraseology close to that of document G, ' He made a truce with them on the basis that they would support him against any of them who made an unexpected treacherous attack '.

The person who made the pact (*ṣāḥib 'aqd*) and treaty on behalf of Banū Qurayẓah was the chief Ka'b b. Asad. Qurayẓah disliked the coming of Meccan Quraysh and their tribal allies; they were at peace with the Prophet (*silm-un li-'l-nabiyy*),[87] and on good terms with the Muslims who even borrowed implements from them to dig the Trench to defend Yathrib. It looks as if Muḥammad had established friendship with Qurayẓah by backing them up against the Banū Naḍīr with whom they seem to have been on bad terms. Qurayẓah was of inferior status to the Banū Naḍīr since the blood-money for a man of Qurayẓah was only half the full blood-money payable for the slaying of a man of Banū Naḍīr. Muḥammad raised the assessment of Qurayẓah to the full amount of blood-money.[88]

So when the Naḍīrī, Ḥuyayy b. Akhṭab, came to try and persuade Ka'b to break his bond, the Qurayẓah chief was most reluctant to do so, for, he said, the Prophet ' had broken no *dhimmah* agreement with us nor exposed us to any shame (*hataka la-nā sitr-an*) but has protected us well '.[89] Ultimately Ka'b was jockeyed into breaking the pact (*'aqd*) Qurayẓah had entered, and Ḥuyayy called for the writing (*kitāb*) which the Apostle of Allāh had written between them and tore it in two.[90] Or, as Ibn Kathīr [91] says, ' They broke the treaty and tore up the sheet (*ṣaḥīfah*) which had the pact written on it, except Banū Sa'nah, Asad, Usayd, and Tha'labah,[92] for they quit/disassociated themselves (*kharajū*) (of Qurayẓah and joined) the Apostle of Allāh '. It is clear that Qurayẓah would be well aware of the penalty for breaking faith with Muḥammad—which in fact is laid down in document C/2a, repeated in 2h explicitly, and alluded to in clause 7 of this document.

If I am correct, as I believe I am, in assuming that document G is the *kitāb* torn up by Ḥuyayy it is evident that there was more than one copy of it. It is logical to follow on from this and propose that at least in some other cases there was more than one copy of a treaty among our ' eight documents '.

[85] op. cit., II, 440. Cf. J. M. B. Jones, art. cit., 251.

[86] op. cit., II, 454, and for Qur'ān quotations relating to the event ibid., II, 494. Al-Wāqidī adds, *Wa-yuqīmū 'alā ma'āqili-him al-ūlā bayna 'l-Aws wa-'l-Khazraj*, which in fact does not belong to this document G, but would doubtless be implicit for the Jews in the earlier documents A, etc.

[87] op. cit., II, 455.

[88] Al-Ṭabarī, *Tafsīr*, 1374/1954–5– , X, 258 seq.; al-Wāqidī, op. cit., II, 458; Guillaume, op. cit., 267; Wüstenfeld, 395. Al-Wāqidī, loc. cit., says that Sa'd b. Mu'ādh was reviled by Ka'b b. Asad, but the retort was made to him that you are no equal (*kuf'*) for him. Naḍīr were nobler (*a'azz min-kum*) than you, and your blood-wit (*diyah*) half theirs.

[89] Al-Wāqidī, op. cit., II, 455.

[90] ibid, II, 456.

[91] *Al-Bidāyah*, IV, 103.

[92] This might be Tha'labah of documents C/3 and D/1.

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Document G

1 وإنّه لا تُجار قريش ولا مَن نَصَرَها.[63]

2 وإنّ بينهم النصرَ على مَن دَهِمَ يَثْرِبَ .

3 وإذا دُعُوا إلى صُلْحٍ يصالحونه ويَلبسونه ، فإنّهم يصالحونه ويلبسونه.[64]

4 وإنّهم إذا دَعَوا إلى مثلِ ذلك - فإنّه لهم على المؤمنين .

5 ألا مَنْ حارب فى الدّين ، على كلّ أُناسٍ حِصَّتُهم من جانبِهم الذى قِبَلَهم.[65]

6 وإنّ يهودَ الأَوْس ، مَوَالِيَهم وأنفسَهم ، على[66] مثلِ ما لأهل هذه الصحيفة ، مع البرّ المَحْض[67] من أهل هذه الصحيفة .

7 وإن البرّ دون الإثم ، لا يَكْسِب كاسبٌ إلّا على نفسه .

8 وإنّ الله على أصدقِ ما فى هذه الصحيفة وأبرّه .

Document G. The treaty concluded prior to Khandaq among the Arabs of Yathrib and with the Jewish Qurayẓah to defend it from Quraysh of Mecca and their allies

1. Quraysh will not be accorded protection, nor will whosoever supports them.
2. There is support between them against any who make an unexpected treacherous attack* on Yathrib.
3. When they are called upon to make and adopt a truce they will make that truce and adopt it.
4. If they call for the same (i.e. a truce) the *Mu'minūn* owe it to them (to adopt it).*
5. Indeed, those who are at war for religion (*dīn*), each (group of) people is responsible (i.e. to defend) their share of their sector lying in front of them.*
6. The Jews of the Aws, their clients and themselves, are on the same (basis) as the people of this sheet, with sincere/complete observation (i.e. of its stipulations) on the part of the people of this sheet.
7. Observation of one's undertakings eliminates treachery/breaking of treaties. He who commits a breach (of this treaty) commits it against himself alone.
8. Allāh is (surety) for the truest (of oaths) and most honoured in the observance of what is on this sheet.

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Commentary

(2) Al-Wāqidī, II, 503, quotes a Jew of Qurayẓah who accuses his tribe, or parts of it, of breaking the alliance they had made (*ḥālafa*) with Muḥammad, 'that you would not support anyone of his foes against him, and that you would support him against anyone who made an unexpected treacherous attack upon him (*allā tanṣurū 'alay-hi aḥad-an, wa-an tanṣurū-hu mimman dahima-hu*)'. It will be noted how near these words are to the text of this document. 'Them' and 'they' in this document would include the *Muhājirūn* and *Anṣār*, but perhaps also Muḥammad's opponents like 'Abdullāh b. Ubayy if they rallied to him in face of a common danger. Perhaps the Jews only enter at clause 6. Had we the list of signatories much light might be thrown on the political aspect of Khandaq.

(3–4) These clauses bind the parties not to enter into a separate peace, thus preserving their own interests at the expense of the rest. It is said that there was a secret approach made to the Prophet's side to allow Naḍīr to return, upon which preparations for war would be dropped. This is highly probable since it was a group of Naḍīr Jews who were the instigators of Quraysh and Ghaṭafān to form the coalition against the Prophet (Guillaume, op. cit., 450). There was evidently very little fighting at Khandaq but a great deal of coming and going in negotiation. Six men only of Yathrib were killed, and, of the Confederates, only three.

(5) This clause is to be explained by a passage in al-Wāqidī, op. cit., II, 446. 'The Apostle of Allāh entrusted each sector (*jānib*) of al-Khandaq to a tribe (*qawm*) to excavate it. The *Muhājirūn* were excavating from the sector of Rātij to Dhubāb, the *Anṣār* from Dhubāb to Jabal Banī 'Ubayd, and the rest of al-Madīnah was interlaced (*mushabbak*) with building.'

It is evident that clause 5, and indeed al-Wāqidī himself, envisaged that the whole perimeter of Yathrib would be defended, the Trench (Khandaq) by armed men, the remainder of the perimeter by the groups of fortified tower-houses (*uṭūm*) commanding access to the area. The defection of Qurayẓah created a breach in the perimeter but this tactical advantage was not pressed home. This type of protection with groups of fortified tower-houses is general in south-western Arabia; for an example see 'A fortified tower-house in Wādī Jirdān (Wāḥidī sultanate)', *BSOAS*, XXXVIII, 1, 1975, 1–23, 2, 1975, 276–95.

Historical setting to document H

This codicil lays down rules for the *Ḥaram* of Medina similar to those for Mecca, or indeed, in all probability for any *ḥaram*, and these would not be far removed from the rules obtaining for a *ḥawṭah* in Ḥaḍramawt up till recent times.[93] Al-Wāqidī,[94] quoting a Companion, Abū Shurayḥ, says, referring to the Meccan *Ḥaram*, 'It does not protect any wrong-doer, nor one who throws off his allegiance, nor a shedder of blood'. Yāqūt [95] is even more specific, 'Whoever enters it (the Meccan *Ḥaram*) is secure (*āmin-an*), and he who commits an aggression (*aḥdatha ḥadath-an*) in any other territory, then takes refuge in it, is safe when

[93] cf. my 'Ḥaram and ḥawṭah', p. 1, n. 2, *supra*. G. Makdisi (ed.), *The notebooks of Ibn 'Aqīl : Kitāb al-funūn*, Beirut, 1970, I, 349, discusses the question of 'the murderer when he takes refuge in the *ḥaram* (*al-qātilu idhā 'ltaja'a ilā 'l-ḥarami*)'.

[94] op. cit., II, 485.

[95] *Mu'jam al-buldān*, ed. F. Wüstenfeld, Leipzig, 1866–71, IV, II, 619.

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he enters it, and when he leaves it the punishments (*ḥudūd*) are applied to him. He who commits an aggression in it is punished for his reprehensible act (*ḥadaṯ*) '.

As the codicil would obviously follow fairly closely after document F, it is to be assigned to round about Year 7. One would expect it to come immediately after F in this series, perhaps even to have been written on the back of the sheet containing F. It seems reasonably certain that it has been misplaced by a copyist.

Document H

1 وإنّه لا يحول هذا[68] الكتابُ دون ظالِم و آثِم.

2 وإنّه من خرج آمِنٌ ، ومن قعَدَ آمِنٌ بالمدينة، إلاّ من ظلم أو أثِم[69].

3 وإنّ الله جارٌ لِمَنْ برّ واتّقى ، ومحمد رسول الله صلى الله عليه وسلم.[70]

H. Codicil to the proclamation of Yaṯrib a sacred enclave (ḥaram).

1. This writing does not intervene between a wrong-doer* and one committing a criminal act.
2. He who goes out is secure, and he who stays is secure in Medina,* except one who does wrong or commits a criminal act.
3. Allāh is a protector for him who observes undertakings and keeps free of dishonourable acts and offences, and* Muḥammad, Allāh bless and honour him, is the Apostle of Allāh.

Commentary

(1) For similar regulations and other echoes of some of the ' eight documents ', see al-Wāqidī, op. cit., II, 836, 844.

(2) This proviso may mean that a person leaving Medina is not to be attacked until he reaches his place of safety (*balaġa ma'mana-hu*).

(3) It is tempting, but perhaps not justified adequately, to read for conjunctive ' and ', *wāwu 'l-qasam*, the particle of the oath, and understand this as a terminal oath such as one finds in the pre-Islamic inscriptions—' By Muḥammad, the Apostle of Allāh '. That this is possible is confirmed to some extent by a Tradition quoted by Aḥ. b. Ḥanbal on the authority of an *isnād* going back to Ibn 'Abbās, *Inna Abā Bakr-in aqsama 'alā 'l-Nabiyyi, fa-qāla lahu 'l-Nabiyyu, 'Lā tuqsim'* 'Abū Bakr took an oath by the Prophet, and the Prophet said to him, " Do not swear " '. This is evidence that people did swear by the Prophet in his lifetime even if at some time he forbade them to do so. I feel inclined to accept this *Ḥadīṯ* as genuine. Not dissimilar to this is the south Arabian practice of interdicting by the head of the Sulṭān or by the head of a man of authority or by a saint (A. M. A. Maktari, *Water rights and irrigation practices in Laḥj*, Cambridge, 1971, 122).

The ' Constitution ' has now been resolved into its component documents which have been identified and, in so far as it is possible to do so, dated. Of course I would not be so rash as to maintain that further reading and reflection might not lead to modifications in detail and I should welcome additional evi-

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dence from scholars of early Islam if they care to send it to me, not so much on that which confirms what has been said, but evidence, for instance from texts not utilized by me, which may seem to contradict my propositions. Nevertheless I think the problems of the ' Constitution ' have largely been solved even if relatively minor adjustments have still to be made.

Heretofore the ' Constitution ' has been discussed in the light of that other major historical document, the Qur'ān, but, now the identity of the ' eight documents ' has been established with virtual certainty, one should attempt to see what light they throw upon the understanding and interpretation of the Qur'ān itself. Many Qur'ānic passages or revisions to earlier passages which have a direct relation with the ' eight documents ' can only have been revealed *after* the agreements they contain were concluded, and in a number of such cases where the diction of the Qur'ān is closely parallel to that of the documents in question, it is not because they derive from the Qur'ān, but because the Qur'ān is alluding to these documents already in existence.

A further, more or less concrete, study can now be made of the fragments of the ' eight documents ' that figure in the *Ḥadīth* collections. Pieces of the documents, especially A and B, seem to have reached collectors from original oral transmitters, even if these were early committed to writing. A preliminary glance indicates that quotations were sometimes confused with other data, abbreviation and glossing occur, but the essential facts remain. To test this part of *Ḥadīth* against an authentic document, other than the Qur'ān, could well show the extent to which genuine *Ḥadīth*, transmitted orally, have conveyed the original text. This would be a useful exercise in literary criticism.

Variant readings to the ' eight documents '

Abbreviations: UB = Abū 'Ubayd, *Kitāb al-amwāl*.
IK = Ibn Kathīr, *al-Bidāyah wa-'l-nihāyah*.
ISN = Ibn Sayyid al-Nās, *'Uyūn al-athar*.

Document A

Clause 1

1. UB inserts *Rasūlu 'llāhi*. IK inserts *al-ummī*, but omits *ṣl'm*.
2. UB reads *ahli Yathriba*.
3. UB inserts *fa-ḥalla ma'a-hum*, but omits this on p. 125, citing a different *isnād*.

Clause 2b

4. UB reads *ribā'ati-him*, and quotes another reading *raba'āti-him*.
5. UB inserts *ma'āqila-hum al-ūlā*.
6. UB reads *yafukkūna* (p. 125).
7. UB adds *wa-'l-Muslimīna*. IK omits *bayna 'l-Mu'minīna*.

Clause 2c

8. UB, here and in the following clause, inserts *min-hum*.
9. IK, after this clause, merely summarizes—*Thumma dhakara kulla baṭn-in min buṭūni 'l-Anṣāri wa-ahla kulli dār-in*.

Clause 2d

10. UB places Banū 'l-Ḥārith b. al-Khazraj before Banū Sā'idah.

Clause 2e

11. IK and ISN entirely omit Banū 'l-Ḥārith.

Clause 2g

12. UB reads *bi-'l-qisṭi wa-'l-ma'rūfi*.

Clause 2j

13. IK omits Banū Aws.

Clause 3a

14. UB and IK read *mufraḥ-an*, but UB (p. 125) reads *mafdūḥ-an*.
15. UB reads *yu'ināū-hu*, but (p. 125) *yu'ṭū-hu*.

Clause 3b

16. UB omits.

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Clause 4a
17. UB inserts *kulli*.

Clause 4b
18. UB reads *jamī'i-hi*. IK reads *jamī'a-hum*.

Clause 5
19. IK reads *yunṣaru kāfir-un*.

Clause 6
20. UB omits this entire clause.

Clause 8
21. UB reads *al-Yahūd*, but this reading is to be rejected.
22. UB reads *al-ma'rūf* for *al-naṣr*.
23. Al-Suhayli, *al-Rawḍ al-unuf*, II, 17—the text of Ibn Hiṯām in the margin reads *mutanāṣarīn/mutanāṣirīn*.

Clause 10
24. UB reads *yu'qibu ba'ḍu-hum ba'ḍ-an*. IK, *yu'qibu ba'ḍu-hā ba'ḍ-an*. Ibn al-Aṯīr, *al-Nihāyah*, III, 112, *ġazat ya'qubu ba'ḍu-hā ba'ḍ-an*.

Clause 11
25. UB omits the entire clause. IK reads *ba'ḍu-hum ba'ḍ-an*. ISN reads *ba'ḍu-hum 'an ba'ḍ-in*.

Clause 12
26. UB reads *hāḏihā*.

Document B

Clause 1
27. UB replaces what follows by *wa-lā yu'īnu-hā 'alā Mu'min-in*.

Clause 2a
28. IK reads *iġhtabaṭa*.
29. UB omits *'an bayyinat-in*.
30. IK reads *ilā*.
31. UB adds *bi-'l-'aqli*.

Clause 2b
32. UB omits what follows.

Clause 3a
33. UB reads *aw āmana*.

Clause 3b
34. UB reads *fa-man naṣara-hu*. ISN reads *wa-inna man*.
35. UB inserts *ilā*.
36. UB reads *lā yuqbalu*.

Clause 4
37. UB reads *mā*.
38. UB for this sentence reads *fa-inna ḥukma-hu ilā 'llāhi tabāraka wa-ta'ālā wa-ilā 'l-Rasūli ṣl'm*. ISN omits *'azza wa-jalla* and *ṣl'm*.

Document C

Clause 1
39. IK and ISN read *yattafiqūna*, plainly in error.

Clause 2a
40. UB reads *min* as does Ibn al-Aṯīr, *al-Nihāyah*, I, 43.
41. UB reads *li-'l-Mu'minīna*.
42. UB places this phrase immediately after Banī 'Awf in the first part of the clause.

Clause 2b
43. IK summarizes clauses 2b–4, entirely omitting clauses 2g and 5.

Clauses 2d and 2e
44. UB transposes clauses 2e and 2d.

Clause 2g
45. UB entirely omits this clause.

Clause 2h
46. UB omits *aṯ̲ima*.

Clauses 3–5
47. UB omits these.

Document D

Clause 1
48. IK omits this clause. UB lacks every clause of document D except no. 3.

Clause 3
49. UB reads *aḥad-un min-hum*.
50. IK omits *ṣl'm*.

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Clause 4

51. IK reads *yanḥajir* in which case presumably *jurḥ-un* would have to be read. Despite the suggestion of the editor of IK that *taḥajjar.* should be read, Ibn Hiṯām's *yanḥajiz* is to be preferred although Lane, *Lexicon* and Ibn al-Aṯīr, *al-Nihāyah*, I, 204, show that it is not recorded to be followed by the preposition *'alā*. ISN reads *lā yanḥajiru 'an ṯa'r-in jurḥ-un.*

Clause 5

52. IK omits *fataka, wa-ahli bayti-hi.* The last three words of the clause are obviously an uncompleted conditional sentence. ISN omits *wa-ahli bayti-hi.*

Clause 6

53. IK reads *'alā aṯhari hādhā* which is clearly incorrect.

Document E

Clause 3b

54. UB omits this clause.

Clauses 4 and 5

55. UB reads *wa-inna bayna-humu 'l-naṣīḥata wa-'l-naṣra li-'l-maẓlūmi*, in place of these two clauses.

Clause 6

56. UB omits.

Document F

Following my strict rule of dividing up the ' Constitution ' at the points where terminal formulae enter, the top three clauses which properly belong to document E, have been left in their original place in Ibn Isḥāq/Ibn Hiṯām's version which is followed by all the other known versions. They have however been numbered as the first three clauses of document E and marked off to show they do not belong to document F.

UB omits all three clauses, IK and ISN give clauses 1 and 2 but omit 3, no doubt considering it mere repetition.

E/Clause 1

57. ISN reads *lan* for *lam.*

F/Clause 1

58. UB reads *al-Madīnatu Jawfu-hā ḥaram-un.* IK reads *ḥarfu-hā*, and the editors give references to readings *ḵhawfu-hā*, and to Ibn al-Aṯīr, *al-Nihāyah*, I, 157, *Jurfu-hā*, a place near al-Madīnah, but this context is not cited.

Clauses 2 and 3

59. UB omits both.

Clause 4

60. UB omits *wa-'ṯṯijār.* IK reads *aw iṯṯijār.*

61. UB substitutes *fa-inna amra-hu ilā 'llāhi wa-ilā Muḥammad-ini 'l-nabiyyi*, omitting the rest of the clause. IK omits *'azza wa-jalla* and *ṣl'm.* ISN omits *'azza wa-jalla* and *Rasūli 'llāhi.*

Clause 5

62. UB omits the entire clause. IK reads *man ittaqā.*

Document G

Clause 1

63. UB omits.

Clause 3

64. UB reads *iḏhā da'awi 'l-Yahūdu ilā ṣulḥi ḥalīf-in la-hum fa-inna-hum yuṣāliḥūna-hu*, omitting the rest of the clause. The interpolation of al-Yahūd is seemingly an erroneous gloss. IK omits the second *wa-yalbasūna-hu.*

Clauses 4 and 5

65. UB reads for these two clauses, *Wa-in da'awnā ilā miṯli ḏhālika fa-inna-hu la-hum 'alā 'l-Mu'minīna illā man ḥāraba 'l-dīna, wa-'alā kulli unās-in ḥiṣṣatu-hum min al-nafaqati.* This seems a misinterpretation of the basic Ibn Isḥāq text.

Clause 6

66. UB omits *'alā miṯli mā li-ahli hāḏhihi 'l-ṣaḥīfati.* IK omits clauses 6, 7, and 8, but curiously inserts *wa-inna Banī Shaṭbata baṭn-un min Jafnata.* This last looks like a mangled and misplaced version of document C, clauses 3 and 4.

67. UB reads *al-birr al-muḥsin.* ISN reads *al-birā' al-maḥḍ*, but this seems contradictory to the text.

Document H

Clause 1

68. UB omits *hāḏhā* and with ISN reads *wa-lā āṯhim-in.*

Clause 2

69. UB opens with *wa-inna-hu*, but omits *bi-'l-Madīnati.*

Clause 3

70. UB substitutes for this clause, *Wa-inna awlā-hum bi-hāḏhihi 'l-ṣaḥīfati 'l-birru 'l-muḥsinu.* IK omits *wa-Muḥammad-un/in Rasūlu/i 'llāhi ṣl'm.*

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